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THE GOVERNANCE OF LONDON

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THE GOVERNANCE OF ENGLAND.

BY SIDNEY LOW, M.A.

"A valuable contribution to the political and constitutional history of our time."—*Daily Chronicle.*

"A very fresh and interesting book on a subject which is as a rule neither fresh nor interesting."—*Spectator.*

LONDON: T. FISHER UNWIN.

THE GOVERNANCE OF LONDON

STUDIES ON THE PLACE OCCUPIED BY LONDON IN ENGLISH INSTITUTIONS

BY
GEORGE LAURENCE GOMME

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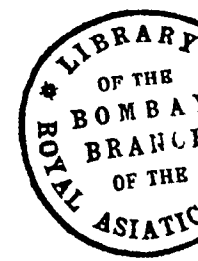
WITH MAPS



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LONDON
T. FISHER UNWIN
ADELPHI TERRACE
MCMVII

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PREFACE

In this book I have presented an anthropologist's view of London history. History to be of value must concern itself with something definite, and the something definite on which it appears to me to have been worth writing is the position of London as an English institution. Anthropologists know that institutions of quite unequal development do not coalesce, and the difficulty in the way of a Romanised Britain has always been that both tribal Celt and tribal Teuton stood in the way. The book, I hope, shows this difficulty, which was a very real one to our ancestors, to be an historical episode of very considerable importance in the evolution of the English state. Whether I have successfully solved it is another question. Perhaps anthropologists may question my right to apply their science and their principles to so purely a historical subject, and may dispute my conclusions as unscientific from that point of view. Perhaps historians may question my right to discuss the solemn matters of history with any other material than that supplied by the palæographer, the chronicler,

or the diplomat. Perhaps, too, the lawyer may say harsh things about the manner in which legal decisions have been treated.

I pray them to consider. Every law has its history. Every historical fact has its setting with crowds of other facts. All that I have attempted is to deal with the material at my disposal in this light, and if I fail I do not think it will be on the ground of method.

I had looked forward during the years this book has been in course of preparation to discussing it, when in proof, with Professor Maitland and Miss Bateson. And even while my sheets were yet fresh with their printed names, they have passed away. Their loss is almost irreparable. Professor Maitland allowed me sometimes to speak to him of the subjects which interested us both; Miss Bateson, just before her death, wrote to me on another subject, and I heard through a friend of her interest in my research. The pleasure I should feel at the completion of my task is shadowed by the thought that I shall not receive their illuminating and always kindly criticism.

I must apologise for the tone of the book; it is too didactic. This fault is not due to any feeling of satisfaction on my part with my own labours, but to the fact that originally my book was in the form of lectures, and without rewriting the whole I could not have changed the general standpoint.

My time for studies of this sort is so limited that I could not face the alternative of rewriting the whole, and so my determination had to be either to sacrifice the whole study or to issue it as it was. I trust that, in spite of many defects, my readers will not judge that the former was my proper course.

I have to thank Mr Graham Wallas for reading proofs, and for much valuable criticism. My old friend, Mr Fairman Ordish, has once more done me the inestimable service of reading my sheets and helping me over many a difficulty. I am also proud to add the name of my son, Allan Gomme, among those who have helped me considerably; and of my son, Austin Gomme, who has worked at the maps for me.

LAURENCE GOMME.

24 DORSET SQUARE,
March 1907.

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THE GOVERNANCE OF LONDON

CHAPTER I

AMONG the local institutions of England London holds a unique position. There is no other city with quite the same right to be called a Celtic stronghold of importance; there is no other city of Roman Britain which can claim so fully to have built up her later position upon the remains of her Roman constitution; there is no other city which became to the Anglo-Saxon monarchy the chief centre of its military power at a time when this meant the existence of the Anglo-Saxon state itself; and there is no other city which stands out as the inheritor of all these forces in its struggle for freedom in mediæval and later times.[1] Perhaps no other city is so gloriously placed for success as a city as London is, but be the causes what they may for the position it occupies as a city among local institutions, it is certain that while comparing faithfully enough in one

[1] I am aware that Mr Freeman makes a similar claim for Exeter in his *English Towns and Districts*, 53-54, and perhaps also for Lincoln; but not only is the claim not made out for these cities, it is not compared with that for London. Bishop Stubbs states the claim for London quite clearly. (*Constitutional History*, iii. 568.)

detail or another with other cities, it possesses within itself innumerable features of uncommon interest and importance which do not compare with other cities.

It is worth while considering the place which London holds among the institutions of the country for many reasons. First, perhaps, because it is the capital city of the kingdom, but principally because of the interest of the subject in relation to the wider interests of national growth and development. The interest indeed is never entirely local. It is local only in its detail, and whether we are dealing with mediæval London or Anglo-Saxon London, with Roman London or even with Celtic London, there crop up points of the greatest value to the student of institutions at all the various stages.

This is not due to the work of its historians. Throughout the voluminous literature which has accumulated on London, there is nothing which tells us of London as an institution during the several stages of its history. A fact or a phase may be mentioned here and there in almost accidental fashion, but there is no guide to tell us of the consistent story which in point of fact lies at the back of the accumulated material. No one seems to have thought it worth while to turn from the archæological remains to the interpretation of their meaning and significance, and no one has considered it of any importance to endeavour to get at the truth of things by approaching them from antecedent conditions, instead of from the views and ideas of later, if not of modern, times. There has been in fact no consistent and scientific attempt to trace out the English

institution which is contained within the shell of London city, and English history, as well as the history of institutions in the western world, are the poorer from this neglect of a great subject. If I mistake not, the true method of enquiry is in the direction indicated by past neglect. One cannot come suddenly upon a given period and learn all it has to tell without first of all seeing what has gone before.

It is not too much to say that the study of English local institutions can only be properly undertaken by first understanding the position of London. It is my purpose to make this attempt. I shall be using old material, but using it in a different fashion and for a different purpose from that which has hitherto been accomplished. In its new position much of this old material will itself appear somewhat new, for at present it lies either as accumulated heaps of archæological *débris*, scarcely even sorted out into its proper periods, or as collections of facts which have yet to find their value and place. A fact as a fact is of minor importance until it has been placed in its proper relationship to the group of facts to which it belongs. No doubt it is impossible to deal with this mass of material thoroughly, and no doubt much of it must remain undocketed and unable to find its place in the reconstructed picture. Nevertheless I think I can see sufficient connection between hitherto disconnected fragments for it to be worth while stating the case which appears to evolve from this new condition.

The question as to how far it is possible to trace

back the development of any given institution is of course dependent not only upon the amount of material to hand, but upon the manner in which it lends itself to investigation. London, with its Norman castle and other remains and its Normano-Latin name of Londoniæ[1] in the significant plural form; with its Saxon history and name Londonbyrig;[2] with its Roman remains and name Lundinium;[3] with its Celtic name Lindun[4]—suggests a scope for enquiry which demands a preliminary statement of the essential conditions. And we are led at once to a consideration of the relationship of primitive politics to fully developed institutions. In England this is necessary, because one of the most important factors in the history of English institutions is the Roman occupation of Britain. At almost every

[1] The plural form is used throughout the *Liber Custumarum*, and the heading to William's first charter is "Charta Willelmi Bastard de libertatibus Londoniarum." Henry II.'s charter is to "Civibus meis Londoniarum." (*Liber Cust.* i. 25, 31.) Mr Wheatley brought the point forward in the *Athenæum*, 22nd January 1887, but no philologist has properly discussed it. See, however, Mr Round's note in his *Geoffrey of Mandeville*, 347.

[2] *Anglo-Saxon Chronicle*, anno. 457.

[3] Ammianus Marcellinus is the authority for the position of London as a Roman city. He says, "Lundinium vetus oppidum, quod posteritas augustam appellavit" (lib. 27, cap. 8). The first occurrence of the name of London on an Anglo-Saxon coin gives the spelling Lvndonia. (*Num. Chron.* 3rd ser. xx. 82.)

[4] Various as are the derivations given of the word London, I think that which most nearly meets the condition of things has been given by Dr Charnock. The Welsh *lli*, signifying a flood, flux, stream, was liable to take the form of lag, lud, lon, lun, lyn, etc., hence Londinium, Lundinium, Lyndin, or London was formed out of purely Celtic elements. It was not derived from its place on the Thames lagoon, but from its place on some smaller river, as, for instance, the Fleet, and the name London can mean none other than a fortress or settlement on the water. See also Isaac Taylor, *Names and Their Histories*, 176.

point we are brought face to face with problems presented by the relationship of Roman influences to Celtic and Saxon influences—that is to say, the relationship of primitive politics to a highly organised polity. In an undeveloped country like Russia, for instance, this relationship is evident in several ways.[1] But in England the question is more difficult for many reasons, and the difficulties have led to conclusions being drawn from the Roman occupation of Britain which are out of all proportion to the facts.

It is extremely important to make this clear, and I shall therefore have to make a somewhat extensive preliminary survey of the relation of the primitive politics of the tribal Britons to the state politics of the Roman government of Britain. Nothing can be attempted in the direct history of London as a local institution until this preliminary is settled—it is, in fact, the necessary preliminary to a study of English institutions just as the history of London is a necessary preliminary to the history of all other local institutions. That the Romans administered Britain when it was inhabited by a race of Celtic Britons who were in the tribal stage of political life; that the Romans were themselves in an advanced stage of imperial politics; that the English who conquered the Celtic tribesmen and the Roman cities were in the same tribal stage of political life as their Celtic opponents, are the factors in the case, and their definite relationship to each other,

[1] Professor Kovalevsky has discussed this point in his masterly treatise on *Modern Customs and Ancient Laws of Russia.*

their influence upon each other and their final position are the facts we need to understand. Chronology alone does not help us here. Because the Roman was post-Celtic and the Saxon post-Roman, it does not follow either that the Roman borrowed anything from the Celt, or the Saxon from the Roman. People borrow from another people only what is capable of easy assimilation to their existing culture, and between the Roman and the Celt and the Roman and the Saxon there was a whole world of progress.

There are certain fixed points in the history of London which have so direct a bearing upon this question that it is advisable to approach it through these channels, more particularly as they have been singularly neglected, if they have not been altogether over-looked, by all the authorities. They are:

(1) London as a city of the Roman empire.
(2) London under Anglo-Saxon rule.
(3) The grant of the charters.

The position of London in each of these periods is entirely different, and yet there is close connection between all. The differences do not tell for discontinuity of London life; the connection does not tell for continuity of any one form of constitution; while the complexity of the problem thus produced has caused the facts to be invested with certain popular characteristics which are not their true characteristics.

Under the first period it is essentially necessary to dismiss from the mind the idea that London was a city of Roman Britain. It was nothing of the

kind. Roman London was a city of the empire, and Britain under the Roman dominion was nothing but a geographical expression. Politically, Britain was a part, or rather it constituted five parts (for it was finally divided into five provinces), of the Roman empire, and Lundinium was a Roman city, situated, as all Roman cities were, on a Roman road which connected it with Rome as the centre of the empire, deriving its power and its constitution, as all Roman cities did, from its external sovereign, the empire of Rome. Lundinium was no mere appropriation of a Celtic site for the purpose of continuing there a system of Romano-Celtic civilisation. It was the definite location of a Roman camp carefully selected for military purposes, and it grew to be a Roman city, developed by its unrivalled position for purposes of commerce. It was not created before the great roadway reached its site from the south. It took its place on the roadway no sooner than that great and primary undertaking had reached the Thames. All that Lundinium contains, therefore, by way of contribution to the full history of London, comes from Roman law and the Roman constitution, and we shall have to appeal to these sources, and these sources only, for whatever is to be learned from this part of its history.

The second period is a more difficult matter. London constitutionally never appears in Anglo-Saxon history at all. It appears as a fortified centre created by the great Ælfred as a bulwark against the invaders of his country and sovereignty. It crops up in one or two ways which show how

accidental its position was. It asserts rights against Anglo-Saxon laws in a manner which compels the question as to whence these rights came. It appears to own no formal allegiance to an external sovereign power, and no Anglo-Saxon king granted it a constitution. No Anglo-Saxon king appears to have done more than appeal to it when turned at bay by his enemies, and to neglect it, or leave it alone, when not troubled by foes. It possessed in later times many traces of its ancient Roman constitution and many traces of Anglo-Saxon custom. While retaining many rights in a considerable stretch of territory beyond its boundaries, it separates itself strangely from this territory which assumed a distinct Anglo-Saxon character, and it allows independent settlements and governments right up to its very walls, but not within its walls. All this is conflicting, not homogeneous, testimony of its life in Anglo-Saxon times, and it needs above all things to be explained and accounted for.

The third period at last brings us into the clear light of constitutional method. London as a chartered city has once more an external sovereign to whom it owes its constitution. But this brings with it the story of a fierce conflict with the monarchs who grant the charters—almost a fierce contest against the charters themselves, and it is accompanied by a continued exercise of rights which were unsanctioned by the sovereign until the sovereign, apparently for his own protection as sovereign and not as an endowment of London, gradually encroached upon them and swept all the most

important of them into his charters. But this again is at variance with the position of Anglo-Saxon London and of Roman Lundinium, and shows that Norman Londoniæ must have received from Anglo-Saxon London strange and strong rights of independence which Anglo-Saxon London could only have built up out of its Roman predecessor.

These are essential matters for consideration. They are new to this branch of constitutional history. No authority has touched upon them, no authority has collated them and decided that they needed investigation before we could begin to understand the position of London. It is clear that the charters did not begin London history, for there is so much at the back of the charters which explains so much that followed the charters. It is clear that Anglo-Saxon times did not begin London history, for there is an unmistakable appeal to something that has gone before. It is clear that if Roman times saw the beginning of constitutional London, it did not see the end of it. What we have to do, therefore, is to try to find a way through this tangle of contradictions and conflicting testimonies, and a way which shall guide us to an explanation of the greatest problem of all, namely, that London, although the capital city of the empire, was not the seat of the English Parliament and the centre of the English Government. It has at last, in these modern days, attained that position by the incorporation of the ancient city in the larger county of London, which includes Westminster, the seat of

Government. But even this has no constitutional significance, and London remains in this important respect the only capital city of the western world which is topographically separated from the seat of the state Government. The fact raises at least the presumption that there is something worth attention in so notable a distinction, and we shall find as we proceed that it contains the germ of the ancient antagonism between Roman London and the Anglo-Saxon tribal settlements around it.

My method of elucidating the interesting problem thus raised, for problem it is, will not be chronological in the strictest sense, because behind the date when a certain event occurs, the date when a certain charter is granted, the date when a custom is observed, is something much more important. There is the date or the period, for it is not possible or necessary always to deal with actual dates, when the event, the charter or the custom actually originated. If I observe, for instance, that on the 9th of November 1900 the Lord Mayor's procession took place, I am entitled to note that it took place on that particular date, in obedience, not to a sudden departure into a new line of operations, but in obedience to a long established rule, and I therefore take back the fact of a civic procession to the earliest date or period when it can be shown to have existed or originated, and I assume its continuance throughout all the intervening period, even if records fail me in proving such a continuance. Again, a charter of a given date may grant certain rights or privileges to the citizens, but the rights

or privileges may not have originated with the charter—they may have been enjoyed by the citizens before the date of the charter, and have only become legalised, so to speak, by the charter. Where this is the case the date of the charter is only of secondary importance. The date or period of actual importance is that to which the rights or privileges really belong. And so with the observance of a custom. It may be noted by some chronicler at a given date, but this does not fix the date or period of the custom. It shows it had continued up to the date when it is recorded, but it does not go back to the date or period of origin. A custom is observed, because it is a custom, because the predecessors or ancestors of the late observers observed it, and we therefore take back the custom to the date or period when it first came into operation. What I shall be dealing with in all these matters is origins, not late observances.

These explanations are necessary, because I shall not follow chronology. Indeed, research into the history of institutions does not rest upon chronology so much as upon the evidence of certain stages of political development, and this evidence is drawn from a minute examination of origins, and from comparative custom. Before we can know anything about London's place among English institutions we must know something of the external conditions under which it came into existence, developed, and finally settled down, as we know it, and though a consideration of these external conditions will take us a little time it must be undertaken.

I

It will be advisable, in the first place, to deal with the Roman constitution. We need to understand this, in its contradistinction to the Celtic and Teutonic institutions. When Rome came into contact with Celt and Teuton in Britain, it was on its way to full state development. The genius of Cæsar had lifted it from the narrow limits of a city-state to the position of an empire, and it was Cæsar who first brought Britain into touch with this empire. To understand the principle of the Roman empire, we must understand something of what the city-state was in ancient politics, for the development of Rome from the status of the city-state suggests that the principles of the city-state ran through all its parts, and would be likely again to reassert themselves when the controlling hand of empire was removed. We know that Britain was part of the decaying empire as well as of the controlling empire, and we must therefore be armed with the materials which will help us to understand the conditions of decay.

The city-state was first developed by the Greeks, and between the Greek and Roman civilisations there was intimate relationship. Above all things it teaches us that the city life of the early western world was not a hateful necessity; it was, on the contrary, an inspiring desire. It meant almost everything to the citizen. It began as an ideal, an ideal at once social and religious, and which always

possessed a sustaining power of singular force and beauty. One cannot study the city life of the ancients without always being conscious of this ideal.[1] To the Greeks the πόλις was the centre of all life and culture. It had a remarkable political and social influence, to which modern civilisation is almost an entire stranger, unless we can detect in the extraordinary development of the mediæval Italian cities,[2] and in the rapid growth of modern tendencies towards city life, the practical approach to what was ideal in ancient Greece. But between the modern tendencies and the early conditions there is a whole region of history—a region which is occupied by the ideals of Celtic and Teutonic life. We can only realise how different these ideals were from those of the ancient world, and then only to a limited extent, by an understanding of the principles of both, and we can best arrive at this by concentrating attention upon the different influences working upon one central example. It is from this point of view that the city-state of Greece and Rome becomes of importance to the proper consideration of the development of London as an English institution.

There is, however, no necessity to enter into details of this vastly interesting institution. My purpose will be served if I briefly refer to the salient features of the most conspicuous examples. Sparta arose from the coalition of three separate communities whose villages were concentrated to

[1] The reader should consult Mr Fowler's excellent treatise on the *City State of the Greeks and Romans*, see pp. 8, 13, 14, 18, 116.

[2] Mr Hammond in his *Political Institutions of the Ancient Greeks* has an exceedingly valuable summary of this point (pp. 1-22).

form the city. After this concentration the power of Sparta began to extend itself by degrees over the adjacent territory and to subdue the towns.[1] But Sparta remained a city. It became a sovereign city with subordinate cities owing obedience to it; it never became a nation where the whole people of the extended area took upon itself the form of a sovereign state. The city of Sparta was the state. In Attica the population dwelt originally in small communities, each independent of the rest in political life. Then certain large towns obtained sway over the smaller ones; in other cases, towns more equal in size joined together in religious leagues. Athens itself was formed from three separate communities, the Ionian community on the Agra having compelled the others to combine with it and adopt the Acropolis Hill as the political centre of the new state. Athens, the city, became a sovereign city with dependencies and conquered territory, but the idea of a state did not develop beyond the city.[2] There was more chance of it at Athens than elsewhere in Greece,[3] but the genius of the people did not grasp it. And so it was in all the early stages of Greek political life. As Mr Freeman has expressed it:

"The independence of each city was the one cardinal principle from which all Greek political life started. The State, the Commonwealth, was in Greek eyes a city, an organised body of men dwelling in a walled town as the

[1] Gilbert (*Constitutional Antiquities of Greece*, 9-14) gives all the necessary particulars.

[2] Gilbert, *op. cit.* 100-102. Miss Harrison's very valuable study of *Primitive Athens* should be particularly consulted.

[3] Hammond, *Political Institutions of the Ancient Greeks*, 62.

hearth and home of the political society, and with a surrounding territory not too large to allow all its free inhabitants habitually to assemble within its walls to discharge the duties of citizens."[1]

We are thus prepared for the definition which Aristotle gives of the state — "such a number of persons qualified [as citizens] as is sufficient for an independent life" (iii. (1)).

I can now turn to the evidence of Rome. Rome is above all political organisations of the utmost importance in matters of European history. "It was in Italy," says Mr Freeman,

"that the idea of the city, the single independent city—the ruling city—was carried out on a scale in which it never was before or after. A group of Latin villages grew together to form a border fortress of Latium on the Etruscan march. That border fortress grew step by step to be the head of Latium, the head of Italy, the head of the Mediterranean world. The idea of the city—the ruling city—gathering around it the various classes of citizens, half-citizens, allies, and subjects, all looking to the local city as the common centre, whether of freedom to be exercised or dominion to be endured, all this finds its greatest and mightiest development in the Latin city of Rome."[2]

The seven hills upon which Rome was built are known to all students. They mark the original hill forts of separate communities, which ultimately coalesced to form the city. I need not for my present purpose relate the story pieced out so ably by Niebuhr and Mommsen from ancient legend, ancient history, and ancient monumental remains,

[1] *Comparative Politics*, 83.
[2] *Ibid.* 96-97.

nor will I dwell upon what visitors to Rome at the present day can see for themselves.[1]

It was the city of Rome which subdued city after city in the Italian peninsula, until the whole of Italy was subjected to her sway; it was the city of Rome which grew jealous of her rival at Carthage, and then looked for the first time for conquest beyond the bounds set by geography; it was the city of Rome which held nearly all Europe at her feet, a great part of Asia and of North Africa; it was to the city of Rome that Britain was a subject country. We do not now speak of the city of Rome, but of the kingdom of Italy in which Rome is situated; there are now no Romans to the outside world but Italians, and this change in nomenclature

[1] The most important existing relics of the time when Roman history begins, though dimly, to take definite shape, are the so called "walls of Romulus." These were built round the circuit of the famous Roma Quadrata of the Palatine Hill. The chief remains of this wall exist at the western angle of the hill (near the modern entrance to the Palatine); all along the north-west side pieces of the wall remain embedded in the walls of the houses of the late Republican and early Imperial period, and at other places, thanks to Professor Middleton's discoveries and those of other explorers, traces are to be found. (*Ancient Rome in* 1885, 48-53.) Even the three gates are to be traced. (*Ibid.* 53-56.) These remains of the fortified hill-city of the Palatine community are, however, of less interest to us than the remains of the great circuit wall, by which, in the words of Professor Middleton, a number of isolated towns or village forts on separate hills, originally occupied by independent communities, were linked together and formed into one large city by the fusion of several different races and tribes into a united people, under one king. (*Ibid.* 58.) The great wall is said to have been begun by Tarquinius Priscus and mostly built by Servius Tullius. It enclosed the seven hills of Rome, namely, the Palatine, the Capitoline, the Aventine, the Quirinal, the Cælian, the Esquiline and the Viminal, and many pieces of this wall still exist. The student will refer to Professor Lanciani's discoveries, and to the great work of the British school at Rome, for the detail of archæological excavation and the conclusions drawn therefrom.

betokens the change which has come over the spirit of political organisation.

Let us then clearly understand what a sovereign city meant politically and economically. It meant that conquered territory from other cities or other countries became the territory of the citizens of the sovereign city. Thus at Sparta the greater part of the territory belonging to the conquered communities was taken from them and divided as the spoils of victory among the burgesses of the victorious city,[1] while in Rome the sums poured at one time into the treasury from conquered people were so immense that it became unnecessary to demand any taxation of Romans for the purposes of the state.[2] These facts at once show that the city as a sovereign state stands in relationship to surrounding peoples and territories in a peculiarly significant position. It is not only the head, but the master; there is no political community in which the city takes the first place, there is only the sharply divided line of the city boundary beyond which there is no community; there is no stretch of territory to which the terms nation, country, and the like may apply, there is only the territorium of the city occupied, if occupied at all, by those who toil for the city; there are no geographical bounds within which may gradually grow up a people with common interests and aspirations in which the city would be absorbed, there is only the extension by conquest of the area which owes obedience to the city.

[1] Gilbert, *Constitutional Antiquities of Greece*, 10.
[2] Arnold, *Roman Provincial Administration*, 9.

These conditions due to the origin of Rome as a city-state tinctured all her subsequent history. When Cæsar opened out the political aspect and placed the city-state at the head of an empire, the empire was not knit together by community of race, interests, or country, but by the sword, and so to the last, changed and extended as the Roman constitution became under the emperors, there was always underneath it all the early conception of the city-state.

This conception reacted upon all its parts. There were subordinate city-states all over the Roman empire, and we shall see how this condition of things affected events with which we are particularly interested. In the meantime, I must give a few details which are necessary for the understanding of later facts.

One of the first undertakings of Rome in a conquered land was to drive great military roads across the country from end to end. These magnificent causeways raised considerably above the level of the ground, and with a deep ditch on each side of them from which the earth that formed them had been dug, were in themselves eminently defensible, and enabled troops to be massed on any given point with security and despatch.[1]

[1] Arnold, *Roman Provincial Administration*, 16; Pearson notes that the roads in Britain were not so massive as those on the continent, *History of England*, i. 40. The Roman roads of Britain can still for the most part be traced, and they conform in every particular to the rules governing the construction of Roman roads in other parts of the empire. There are fifteen great road routes mentioned in the itinerary of Antoninus, and no less than eight of these fifteen roads converge upon London. Commencing on the east there is (1) the road to Colchester, Ipswich,

On these great road systems the military and commercial centres were undoubtedly of the first importance. Fortress was connected with fortress in a fashion which made the hand of Rome upon a country appear to hold only the military organisation. And this is in the main true. Development caused changes. Military protection produced of course some of the results of peace. Commercial prosperity would convert military fortresses into large town communities, and the organisation of these into cities of the Roman type followed necessarily. Then came the still further constitutional change in the formation of the province. But it has to be noted that the province did not displace the cities. When the Romans had to organise a province, they used the cities as their basis; the towns were the administrative means of raising the taxes, and each town comprehended a district of tributary lands, the names of which with their occupiers were kept by the

and Norwich, with (2) a branch from Colchester to Thetford, Cambridge, Lincoln, and York; (3) the road to Verulam, Wroxeter, Chester, York, Carlisle; with (4) the road from Verulam to Leicester and Lincoln; (5) the western road to Silchester and Bristol, with (6) the branch from Newbury to Gloucester, Hereford, and Shrewsbury; (7) the south-western road through Guildford to Southampton; (8) the south-eastern road to Rochester, Canterbury, Richborough, and Dover. The itinerary does not describe all the roads constructed by the Romans, but only the principal routes used primarily for military purposes; and though there is much doubt about the site of some of the stations and about the route of portions of the roads, there is no doubt about the site of London, nor that its position on the road-system of Roman Britain made it a sort of Clapham Junction of the time. There is no adequate study of the Roman roads of Britain, though the subject is so tempting a one for the archæologist and historian. Two small books have recently been written, which may be consulted for the general conditions, namely, Mr T. Codrington's *Roman Roads in Britain* (S.P.C.K.), 1903, and Forbes and Burmester's *Our Roman Highways* (1904).

town magistrates, and it was at the cities that justice was administered.[1]

The development of the city system must in the majority of cases have been gradual. The most natural way in which a town grew up of itself in a Roman province was from the surroundings of a military camp or from the camp itself.[2] The town might become a colonia or a municipium. A colony was used for three different purposes—as a fortified outpost in a conquered country, as a means of providing for the poor of Rome, and as a settlement for veterans who had served their time.[3] Cæsar settled 80,000 citizens in different colonies out of Italy, and Augustus in some cases expelled the existing inhabitants, and thus founded entirely new towns. Thus the colony became very important; the idea was that it was another Rome transferred to the soil of another country, and even in the form and aspect of the place Rome was imitated, and the Roman law with all its formal usages was transferred unchanged to the provinces.[4] Some of the towns were known as municipia, but it is difficult to understand what distinction is implied by this term. In regard to their internal arrangements and constitution what is true of a colony is true of a municipium. The historical difference between the two is that

[1] Arnold, *op. cit.* 201. I think Mr Coote's learned description of the process of colonisation, wherein the territorium and the city are both represented, is the best account for details. (*Romans of Britain*, 42-119.)

[2] Arnold, *op. cit.* 206.

[3] *Ibid.* 218.

[4] *Ibid.* 220, and see Coote's *Romans of Britain*, 132-133. The words of Gellius (xvi. 13) are very decisive on this point—"effigies parvæ simulacraque populi Romani."

which is made by Aulus Gellius, namely, that the municipia were taken into the Roman state from without, while the colonies were off-shoots from within.[1]

That Britain under the Romans was municipalised —in other words, was governed upon the principle of the city with its territorium, is certain. There were more than fifty of these cities—civitates, municipia, coloniæ—when the Romans left Britain,[2] and Mr Coote has collected from various scattered sources the evidence which proves them to have been constituted upon the accepted lines of Roman Government.[3]

The provincial system, on the other hand, was not a gradual development. It was the formal act of the emperor. Britain was divided into four provinces—Britannia prima, Britannia secunda, Maxima Cæsariensis and Flavia Cæsariensis.[4] The Emperor

[1] Arnold, *op. cit.* 221.

[2] The number is variously stated. Mr Coote quotes fifty-nine from an authority speaking for A.D. 250, Marcianus Heracleota, see *Romans of Britain*, 344. Of these cities London was undoubtedly the greatest. The British historian, Nennius, has left a list of thirty-three cities, and from other sources a few more may be added. Altogether, of the known cities left by the Romans in Britain to continue the political life of that territory, we may be fairly sure of London, Bristol, Canterbury, Colchester, Cirencester, Chichester, Gloucester, Worcester, Wroxeter, York, Silchester, Lincoln, Leicester, Doncaster, Carmarthen, Carnarvon, Winchester, Porchester, Grantchester, Norwich, Carlisle, Chester, Caerleon on Usk, Manchester, Dorchester, Sandwich, Dover, Rochester, Nottingham, Exeter, Bath, Bedford, Aylesbury, and St Albans. (Kemble, *Saxons in England*, ii. 269.) I examine the Nennius list a little more closely in chapter iv.

[3] *Romans of Britain*, 346-347. Mommsen (*Provinces of the Roman Empire*, i. 193) considers that the great urban centres were more weakly developed in Britain than elsewhere.

[4] Mr Pearson's *Historical Maps of England* should be consulted as

Diocletian subdivided the older provinces of the empire, making them much smaller and more numerous, and establishing a new official, the Vicarius, between the Cæsars and the provincial Governors. Thus the whole empire was divided into twelve dioceses, the smallest of which was Britain. These dioceses were subdivided into provinces of which there were one hundred and one in all, and of which Britain supplied four. These provinces stood in political relationship to Rome, not to Britain.[1] Apparently the great rivers determined their boundary line, and the country was thus divided by north and south.[2] But north and south are not the natural divisions. East and west were the divisions of both tribal Celts and tribal Saxons, who followed more or less the geographical conditions of the country. In this significant difference we get a most interesting indication of what will appear more and more as we proceed, namely, that the Roman system, even in the provincial government, was guided by no influences except those dependent upon Roman needs and circumstances, and that Roman needs and circumstances were

to the position of these provinces. Britannia prima was the district south of the Thames; Flavia Cæsariensis was that between the Severn and the sea; Britannia secunda was west of the Severn, comprising Wales and the Welsh marches; Maxima Cæsariensis was between the Humber and the Tyne. (Pearson, *History of England*, i. 40.)

[1] Mr E. G. Hardy has a most instructive study of "provincial concilia from Augustus to Diocletian," in *English Historical Rev.* v. 221-254, which helps me in some of my difficulties. He considers them to have been "primarily of a religious rather than a political character" intimately associated with Cæsar worship, which forms so marked a feature of the first three centuries.

[2] Professor Rhys (*Celtic Britain*, 97-101) should be consulted on this point.

absolutely different from those of the Celts and Teutons.

In what exact relationship the provincial system stood to the city system is not quite clear, but what is of importance to the present enquiry is that the city system was the real foundation of the Roman Government. Rome held Britain through the established civitates, municipia and coloniæ, and these several grades of cities held by their territoria the whole country of Britain.[1] Rome, therefore, never settled upon the country. She fixed, so to speak, a series of pillars at various places in the country, and upon these pillars she rested her system of government. She never descended from the heights of the pillars to the level ground at their base. At the bases of the pillars radiated the lines which held the country, but these were military, not national lines. They led from city to fortress, from fortress to city, and did little for the country beyond allowing the erection of country villas for the great Roman officials. Rome never knew the forces which lay dormant at her feet in the untouched national sentiment of the conquered Celts.

Britain under the Romans, therefore, was not a state. It was but a part of the Roman empire, governed by Roman officials and by Roman laws and usages.[2] This fact introduces us to a very important condition of the Roman occupation of these islands.

[1] I do not quite follow Mr Haverfield's argument in his British Academy paper on the *Romanisation of Roman Britain* as to the limited extent of the ager attributus of the towns in Britain (p. 20).

[2] Gildas understood this point, "ita ut non Britannia sed Romania censeretur," p. 20, of Mr Williams' edition.

The cities of Britain were not politically connected with Britain but with Rome. More particularly is this the case with London. London, the city, and Britain, the country, had little or no political relationship except what was inevitably due to geography, for all the influences which were at work helped to keep them apart and not to bring them together. London's rapid development to the attainment of the proud name of Lundinium Augusta tended to make it more and more dependent upon Rome, and consequently independent of Britain. Britain's island position tended to make it more and more independent of Rome, and there are many passages in classical historians and poets which show that Britain was considered by reason of its insular position, as a sort of independent world.[1] Thus we have two forces at work against the fusing of the Roman cities in Britain with a British state.

The fact is, that the Roman civilisation in Britain was, as the British civilisation in India now is, centuries in advance of the people then brought into contact with it. All that the Romans had gone through in order to arrive at their political systems was missing from the experience of the Britons. And the Britons could not, therefore, assimilate such a system into their own undeveloped life. How impossible it is to conceive the complete assimilation of British tribes and chieftains with Roman cities and governors may be illustrated best from the records of Rome herself. There are no touches of the un-

[1] Freeman, *Comparative Politics*, 351; *Norman Conquest*, i. 556, gathers the references together.

bending of Rome to native British ways, such as there are of the unbending of Britain to native Indian ways; there is not the name of a single British prince or British chief of any grade appearing among the rolls of Roman official life. "We seek in vain," as Mr Kemble has said,

"for any evidence of the Romanised Britons having been employed in any offices of trust or dignity or permitted to share in the really valuable results of civilisation; there is no one Briton recorded of whom we can confidently assert that he held any position of dignity and power under the imperial rule; the historians, the geographers, nay, even the novelists are here consulted in vain; nor in the many inscriptions which we possess relating to Britain can we point out one single British name."[1]

On the contrary, "levies, corn, tribute, mortgages, slaves"[2] are the ominous heads under which Britain appears in the vast ledger of the empire. When Tacitus tersely observes that "Ostorius Scapula reduced the hither Britons to the form of a province" (*Agric.* xiv.), the sentence conveyed all that was necessary to tell the Romans what institutions existed in Britain, while, alike to us moderns and to the

[1] *Saxons in England*, ii. 280. I am not convinced to the contrary by Mommsen's account of the evidence afforded by Roman villas and by the scholastic training of the British youth (*Provinces of the Roman Empire*, i. 194), nor does Mr Haverfield's argument in his valuable paper before the British Academy convince me that Roman civilisation penetrated beyond Roman centres. All that Mr Haverfield proves seems to me to be that in Roman Silchester and other Roman cities there was complete Roman civilisation. But this is what might be expected.

[2] Thus the panegyric upon Constantius, A.D. 296, alludes to Britain as "valuable for its contributions to the treasury," Eumenius (cap. vii.) —tot vectigalibus quaestuosa. Giles (*History of Ancient Britons*, ii. 133) contains the excerpts.

Britons, who were thus governed, the sentence conveys no meaning, nor can we arrive at the meaning without research into the methods of Roman Government.[1] What the meaning was to a Roman may perhaps be gathered from the words of a Roman poet, Statius, who puts into the mouth of "an aged inhabitant of the savage land" (*trucis terræ*) an address to the son of a certain Vettius Bolanus, who governed Britain during the wars which preceded the reign of Vespasian, in the following words:

"Here your father sat in judgment and on that bank he stood and addressed his troops. Those watch-towers and distant forts are his, and these walls were built and entrenched by him. This trophy of arms he offered to the gods of war, with the inscription that you still may see; that cuirass he donned at the call to arms; this corslet he tore from the body of a British king."[2]

Do we not hear the ring of the Roman voice in these poet-words? Do we not see the proud bearing of the son of Vettius Bolanus? Do we not recognise the contemptuous position of the dead British king? It was always so. The Roman youth listening to these words probably stood in the basilica or in the forum of some Roman town in Britain—amidst all the signs of Roman occupation and greatness; the British were stamped out and their chiefs or kings were killed or outlawed—they were to him aliens.

So much stress has been laid upon the results of the Romanisation of Britain in producing a sort

[1] See Kemble, *op. cit.* ii. 278.
[2] Statius, *Silv.* v. 2, 142.

of Romanised Briton as the basis of its population, that it is necessary to extend research at this point into special branches. It is essential that we should see that the Romanisation of Britain does not follow from the Romanisation of the Roman cities in Britain. Most authorities have, I venture to think, mistaken the matter because they have not understood the evidence from the two perfectly distinct standpoints it naturally presents, namely, the Roman and the British. These can never have been amalgamated into Romano-British, for they were not fusible. Some few of the British chiefs, perhaps some of the sub-chiefs and even some of the tribesmen, no doubt, adopted Roman ways, profited by the Roman arts and culture, and became, if not Roman citizens by law, at all events Roman citizens by adoption and choice. But that this result upon individuals implies a British advance from a tribal to an imperial political system is absolutely negatived by the facts. There are two distinct sources of political life in Britain. We must turn to Rome herself to know what Britain was as a part of the Roman empire just as we shall have to turn to Celtic evidences to know what the Britons were during and after the Roman occupation, and we shall find that the Britons were just as much tribesmen after the Roman occupation had ceased as they were before it began.

Fortunately for the first part of this comparative study, we may turn to one or two of the significant features of Roman law which in the main belong to municipal history.

We see this first in the law of marriage. The

jural capacity of a Roman citizen was not unlimited. He was not legally free to do what he liked in all directions, and the restrictions, while they kept him attached to Rome, correspondingly weakened his position towards the provinces of the empire.[1] The *jus conubii* or right of marriage was a restricted right. Originally it did not exist between males and females of different cities unless by special agreement between those cities.[2] No Roman was free to marry whomsoever he would, and in particular a person in the service of the Roman state who resided in a province could not, so long as that service continued, conclude a marriage there, though after his service was ended he could obtain the right of marriage with an alien.[3] When we consider that this right was the later extension of the earlier laws, by which originally both patricians and plebeians married only amongst their own class, and freedmen were prohibited from marrying the freeborn, we are able to estimate its force. The first restriction removed was by the *lex Canuleia* (A.U.C. 309), whereby *conubium* was authorised between patricians and plebeians; by the *lex Julia* (A.U.C. 757), between freedmen and freeborn; and by Justinian, who removed all restrictions from senators. Of course these stages in the law of marriage run parallel to the development of Roman law generally from the *jus civile* to the *jus gentium*, of Roman citizenship in the old form to the citizenship of a world-wide empire, but the restrictions which were

[1] Cf. Sohm's *Institutes of Roman Law*, 181.
[2] Ortolan, *Roman Law*, 79.
[3] Gaius, 57; Savigny, *Jural Relations*, 31.

thus removed as between the Roman citizen and the alien (*peregrinus*) were met by the new restrictions imposed from the other side, those, namely, of the barbaric peoples, who fastened upon the Roman empire for their future countries. At all stages, therefore, the law of marriage in the Roman provinces presented a set of rules which would keep not only the cities but it might be the governing classes in the cities,[1] as an exclusive caste, the entrance into which was barred by all the forces which tell most strongly against the building up of a common nationality. A Roman citizen in Britain was more completely separated from the Briton than an English citizen is from the native races he rules. In the latter case custom only is the separating force; in the former both law and custom operated. And just when Roman law was breaking through this barrier, the *leges barbarorum* of the new conquerors set up another. No one can study the remains of early Celtic law preserved in Britain without being impressed by the fact that it occupied in pre-Teutonic times the same position which the *leges barbarorum* occupied later. When the Roman was prepared to interpret his *jus civile* by the light of his *jus gentium* the British Celt was not ready to follow. And if ever any portion of the Celtic peoples in Britain attained to that degree of culture, it was of no avail, because then they had to meet the Saxon rules which were set up

[1] Gaius, 96, preserves the law by which the magistrates might acquire the Roman franchise along with their wives and children (*majus latium*, see Niebuhr, *History of Rome*, ii. 80), or whereby the magistrates themselves might acquire the Roman franchise, but not their wives and children (*minus latium*).

in contradistinction to the Roman code. It is difficult to state all the forces which operate or tend to operate against the assimilation of conquered with conqueror, but if among these forces there is discovered a different *jus conubii*, whether in full vigour or in process of development or decay, this will assuredly occupy the dominant place.

There was, too, a whole body of merchant law. Laws do not concern themselves with merchants and merchandise until civilisation has advanced to the stage of empire, and then it becomes necessary to define what merchants may do and may not do. This was always the province of the Roman law, and neither the laws of the Celts of Wales or of Ireland contain anything of moment under this head. Nor do the laws of the Saxons. So marked is this important fact that our latest historians of the English law tell us that

"before the end of the thirteenth century the law merchant was already conceived as a body of rules which stood apart from the common law. It would consist of what would now be called rules of evidence, rules about the proof to be given of sales and other contracts, rules as to the legal value of the tally and the earnest money. These special mercantile rules were conceived as being specially known to merchants; in the courts of fairs and markets the assembled merchants declared the law. Also these rules are not conceived to be purely English law; they are, we may say, a *jus gentium* known to merchants throughout Christendom, and could we now recover them we might find some which had their origin on the coasts of the Mediterranean," [1]

[1] Pollock and Maitland, *History of English Law*, i. 450. Cf. Spence, *Equitable Jurisdiction of the Court of Chancery*, i. 247.

that is, of course, Rome. It will readily occur to most students who know anything of the multifarious transactions of commerce, how important it was to possess a code of rules which would allow the Londoner of Roman Britain to trade safely not only with the citizens of York, Winchester, Colchester, or other Roman city of Britain, but with the continental cities of the empire and with imperial Rome herself. And such a code was a legacy left to the cities from Rome. The *jus commercii* was one of the privileges of a Roman colony. It enabled two cities to make special arrangements whereby the inhabitants of the one could legally convey any property to those of another, or make binding arrangements with them.[1] In no other way could commerce between two cities be carried on. We shall see later on what important results this Roman law had upon the cities of Britain when the sanction of Roman sovereignty had ceased to operate, but it is also important to note its characteristically restricted nature. The *jus commercii* of Roman law is almost of the nature of a restriction of natural rights; it is, at all events, a city law and not a national law. It is not a law generally applicable to a whole country or to the whole empire, but a law permitted to certain cities. It tends to emphasize in a special degree the independence of each city in relation to all other cities; it tends to throw upon the city a responsibility for action in connection with the peoples of the surrounding country, which certainly does not lie in the direction of assimilation and amalgamation.

[1] Ortolan, *Roman Law*, 79.

Let us consider how merchant law extended into post Roman times. It first of all ensured peace on the great highways of commerce, and nothing is more remarkable in the early history of English law than the growth of the conception of the king's peace upon the great highways—the Roman roads, in point of fact.[1] At a time when Anglo-Saxon kingship did not extend beyond the narrow limits of a petty kingdom, the king's highways, as the Roman roads had come to be called, were declared to be under the special protection of the king. This was Roman merchant law, adapted to the uses of the Anglo-Saxon state, when once the Anglo-Saxon state had passed from tribalism. Secondly, there is a well-known Anglo-Saxon law of uncertain date which declares that any merchant "who fared thrice over the wide sea in his own vessel" shall have the rank of a thane.[2] This law is an exact copy of a Roman law passed by the Emperor Claudius.[3] Thirdly, there is the well-known *trinoda necessitas*—the service imposed upon all territorial holdings, for the purpose of the upkeep of roads, bridges, and for military defence—an absolutely certain relic of the old Roman merchant law,[4] for bridges were first made by the Romans and were necessary to the continuity of the Roman roads, and military defence was one of the first duties of

[1] Sir Frederick Pollock's lecture on the King's Peace in *Oxford Lectures*, 80-83, should be consulted hereon.

[2] *Ancient Laws and Institutes of England*, Thorpe, fol. edit. 81, § 6.

[3] Coote, *Romans of Britain*, 374.

[4] Bishop Stubbs states his objections to this view in a note, see *Constitutional History*, i. 76. Mr H. C. Coote's cogent and learned argument in its favour is to be found in his *Romans of Britain*, 260-261.

Roman cities. Now the point is that these extensions of Roman merchant law occur in the Anglo-Saxon states, not among the Celtic Britons. Nowhere in Celtic law do we find a conscious adaptation of Roman law at first hand. It occurs in later times through the agency of the Church, but not in earlier times through the agency of the cities, and the conclusion is irresistible that the Celts of Roman Britain did not govern themselves on Roman principles, did not, therefore, adapt themselves to Roman life.

There was more than all this and all that it implies in culture. There was the municipal constitution. Now a corporation consists of a number of individuals united by public authority in such a manner that they and their successors constitute one person in law. We are so familiar with this institution that it is not easy to understand that it is only the conception of an advanced civilisation. A collection or group of individuals may act together for many purposes on agreed lines; but they cannot be treated by the rest of the community as one person unless the rest of the community, by means of some sovereign authority resting in that community, agreed to endow them with the peculiar position of a legal person, agreed to consider them as one, even though, as a matter of fact, they were many. Among the Romans every corporation was constituted by a specific law, by a decree of the senate, or by an imperial constitution.[1] These corporations are generally authorised to hold property; to sue and be sued in the corporate name; to choose office-bearers

[1] Ortolan, *Roman Law*, 606.

to manage the business of the body; to elect new members from time to time; and to make by-laws for the administration of their own affairs, while there must always be some person authorised to represent the corporation in its external relation.[1] All this meant corporate action, meant a voting by majority to settle what both majority and minority were to do, meant the sinking of the individual in the group.

It is impossible to overestimate the importance of this conception of corporate life — the some one to represent a whole city in its external relations is sure to grow into a some one of importance, the city so represented is sure to act and get into the way of acting in a definite continuous fashion with a policy in view. Every Roman city might be called upon by the Imperial city of Rome to defend its action at any time; and when it had no longer to do this before a definite political superior such as Rome was, it would have learnt how to do it before any other external force which presented itself in opposition. A city organised upon the Roman legal system would not necessarily break up into atoms at the touch of opposition from without. With a corporate constitution derived from Roman law it would know how to deal with all outside actions, and the very strength which it possessed in relation to external enemies would consolidate and organise its strength for internal affairs. Moreover, it was accustomed, as we have already seen, to make agreements for commercial

[1] Mackenzie, *Roman Law*, 155. Of course Mr. Goote argues that there is evidence of all the Roman cities being corporations in Anglo-Saxon times (*Romans of Britain*, 375), but see Merewether and Stephens (*History of Boroughs*, passim.) against this view.

purposes and for marriage purposes with other cities. The cities which Rome left in Britain when it was cut off from the empire were indeed political units of immense importance, far in advance of the native British institutions. They lost the headship of Rome and they substituted in its place independent headships of their own. With all the essentials of corporate existence in actual working order, the break-up of the external sovereignty from which these essentials were originally derived, would not weaken but, on the contrary, would, under certain circumstances, strengthen the corporate government. The natural development would be towards independence and the amount of independence would be governed by the course of political events in the country dominated by the cities. Circumstances favourable to a natural development in the case of London failed in other cases. The important thing is to note how the line of natural development was twisted or deflected by the action of political events. Coming into existence as the outcome of advanced Roman politics corporate government was strong enough to survive the vortex of the Romano-Celtic struggle and the Anglo-Saxon conquest, and thus to appear as one of the anomalies of Norman England. Between the external sovereign from whom the municipal constitution was first derived, namely, the Roman empire, and the external sovereign who forced his sanction upon the prescriptive municipal constitutions, namely, the Plantagenet king, Edward III, there is the lapse of many centuries. It is during these centuries that the

natural development of municipal government took place, and it is here that we shall find evidence, if it is to be found at all, of the place it occupies in English institutions. And if it is to be found at all it will be at London. Exeter comes near it; York may contain traces; there may be fragments elsewhere, surviving, however, in isolation and decay, not in vigorous growth. In London only is there evidence, not only of survival but of continuity, not only of the thing surviving, but of its effect upon the constitutional life of London.

II

In this brief summary of the Roman constitution and its relationship to the history of Britain it has been necessary to use terms of advanced political meaning — city, state, corporation, merchant law, imperial government, all of which belong as much to modern politics as to Roman. We can use no such terms in describing the institutions of the Celt or the Saxon. How impossible it is to do so will be seen later on; that it is necessary to use them in describing the institutions of the Romans illustrates at once the wide divergence between the two systems. This wide divergence is a matter of supreme importance. That it is not at present recognised is the cause of much indefinite research and not a little error, and even so good an authority as Mr Haverfield does not escape this difficulty. He sees clearly enough that Roman organisation and tribal organisation existed side by side in Britain. He fails to see

that they are essentially antagonistic, and hence he tries to find points of assimilation where they cannot be.[1] I shall proceed now to examine the tribal system so far as it is necessary for the subject in hand.

The constitutional system of the Celts was tribal, and it is known to us almost as much from its historical survival as from its ancient records. In each of the three portions of our country where the Celtic peoples have remained in force—in Ireland, in Wales and in Scotland—evidence of the tribal system is forthcoming, and this evidence is aided by the researches of specialists, such as Sir Henry Maine, Mr Frederic Seebohm, and Dr Skene. It is not necessary for my purpose, of course, to go into all the intricate details of the tribal system. The structure and its main supports are all that is needed, and I shall draw my account of these from each of the three centres of Celtic life, without being careful to specify what is peculiar to each. Nor is this necessary, for in all essentials the tribal system of Ireland is repeated in Scotland and Wales.

I think the summary which Sir Henry Maine made in 1875 of the Irish tribe is still the best that exists:

"The first instructive fact which strikes us on the threshold of the Brehon law, is that the same word 'fine' is applied to all the subdivisions of Irish society. It is used for the tribe in its largest extension, and for all intermediate bodies down to the family, as we understand it, and even for portions of the family.[2] It seems certain that each of the various groups into which ancient Celtic society was divided conceived

[1] I refer to Mr Haverfield's very valuable paper on the *Romanisation of Britain*, published by the British Academy.

[2] See O'Curry, *Manners and Customs of the Ancient Irish*, clxii.

itself as descended from some one common ancestor from whom the name or one of the names of the entire body of kinsmen was derived. . . . The tribe has long been settled upon the tribal territory. It is of sufficient size and importance to constitute a political unit, and possibly at its apex is one of the numerous chieftains whom the Irish records call kings. The primary assumption is that the whole of the tribal territory belongs to the whole of the tribe, but in fact large portions of it have been permanently appropriated to minor bodies of tribesmen. A part is allotted, in a special way, to the chief as appurtenant to his office, and descends from chief to chief according to a special rule of succession. Other portions are occupied by fragments of the tribe, some of which are under minor chiefs or flaiths, while others, though not strictly ruled by a chief, have somebody of a noble class to act as their representative. All the unappropriated tribe-lands are, in a more especial way, the property of the tribe as a whole, and no portion can theoretically be subjected to more than a temporary occupation. Much of the common tribe-land is not occupied at all, but constitutes, to use the English expression, the waste of the tribe. Still this waste is constantly brought under tillage or permanent pasture by settlements of tribesmen, and upon it cultivators of servile status are permitted to squat, particularly towards the border. . . . And there are no signs, as yet, even of the beginnings of great towns and cities."[1]

I will extend this summary in one or two directions where evidence will be required later on. First of all, the tribe of the Brehon law tracts is a corporate, organic, self-sustaining unit—"the tribe sustains itself."[2] I should like to add, in anticipation of some later points, that this is a natural corporation—a corporation formed of kindred, bound

[1] *Early History of Institutions*, 90, 92, 93, 96. "The Celtic Irish never formed town communities," *Ancient Laws of Ireland*, iv. p. xiv.

[2] *Ancient Laws of Ireland*, ii. 283; Maine, *op. cit.* 107.

together not only by ties of blood but by religious, political, and economical ties of the closest character. It was formed from within, and not by the machinery of an external sovereignty, which for purposes of government permitted a group of persons to act and be considered as one person. It had no dealings with individual persons, for individual persons were unknown to the tribal polity, and all its external dealings were with tribes constituted like itself as natural organisations. We cannot, in the legal sense, apply the term corporation to the corporate life of the tribe, because both internally and externally it was entirely different except in the one fact that it acted as a *corpus*. Its action, however, in this respect needed no sanction, for it was the only action possible among tribal people.

Cattle was the principal wealth of the tribe. It not only constituted its capital but its medium of exchange—its *pecunia*.

At the head of the tribe was the Ri, or king. He held that position as representative of the common ancestor and was chosen or elected by the tribesmen from members of the family group, who were direct descendants of the common ancestor. In Ireland, at the time when the Brehon laws were reduced to writing, there were several classes of tribesmen, evidently formed from the economical influences which had eaten into the primitive kinship of the tribe. I am, however, not concerned with these classes except to draw attention to the existence of a servile or slave class.[1] What is of more importance

[1] It is described in the *Book of Rights*, 174.

to us is the tribal system of rights. As soon as a member of the tribe reached the age of fourteen he was emancipated from the control of his parents and acquired certain rights, but was not invested with his full privileges till the encircling of the beard, that is till he became twenty years old, when he was entitled to a separate residence and a share of the tribe land.[1] Here it is plain that kinship with the tribe, and not kinship with the family, is the all-important fact, and the question is how was it arranged. A very remarkable custom is described in the Brehon laws,[2] which has been the subject of much discussion,[3] but stripped of technicalities it can not only be fitted in with the general conception of the tribe as it appears among all European peoples, but it can be found in actual working in the Scottish survival of the Celtic tribal system.[4] This custom is the well-known geilfine system. It commences with the settlement of the tribe upon a definite territory and the encroachment of the family upon tribal rights. This was "contrived in the interests of the noble classes who possessed sufficient influence to procure portions of the tribal lands to be granted to them and their families, to the exclusion of the rights of the general body of the tribe."[5] Thus the Irish tribal system allows us to get back to the most ancient conditions, to see in fact the beginnings

[1] *Ancient Laws*, iv. 299; Skene, *Celtic Scotland*, iii. 143.

[2] *Ancient Laws*, iii. 333.

[3] See particularly McLennan, *Studies in Ancient History*, 351-387; Maine, *Early History of Institutions*, 216 *et seq.*; *Ancient Laws of Ireland*, iv. pp. xlix. *et seq.*

[4] I have pointed this out in my *Village Community*, 134-135.

[5] *Ancient Laws of Ireland*, iv. p. xciii.

of the family system as it grew inside the tribal system.

The tribe assembled for public purposes, every free tribesman attending and taking his part in the transactions, and the place of meeting was sacred to its purpose and was always in the open air.[1] There is much in the tribal assembly in its primitive conditions which lasted long in later conditions. The decision by unanimous vote and not by majority votes;[2] the meeting place becoming the sacred spot for both tribal and religious functions; the law of the tribe being judicial rather than legislative; the ceremonial assuming a character which brought about an almost sacred adhesion to accepted forms; the position of the tribal chieftain as an elected head; these are all points of great moment in the development of tribal institutions on British soil and which though best seen in the Irish evidence are all present in the Welsh evidence.

The group of kindred thus constituted and thus kept together had one other feature which it is important to note. No member of the tribe ever acted or thought of acting individually—every act of an individual tribesman was the act of the kinship group, every act from without the tribe did not effect an individual tribesman, but the whole tribe. This principle is most clearly and characteristically shown in the system of punishment for the slaughter or injury of a tribesman. Such an act "was considered

[1] I have worked out this subject in my book, *Primitive Folkmoots*, which, though containing many errors, is still useful as to the facts.

[2] Kovalevsky, *Modern Customs and Ancient Laws of Russia*, 122; Drew, *Northern Barrier of India*, 177; Skene, *Celtic Scotland*, iii. 391.

as a loss to the tribe itself, which must be compensated for, and when compensation was made and accepted the criminal was free."[1] Compensation was based upon a system of fines which consisted of a fixed value put upon each member of the tribe, according to his position and rank, and expressed by a standard of value in cattle. It was his "honor price."[2] It helped to keep up the form of tribal kinship long after the facts of tribal kinship had ceased to operate in their primitive conditions, and it knit together the members of the tribe in an economical and judicial sense, after the principle of kinship had faded away.

The final point to note is what existed outside the tribe. There were only non-tribesmen, and the tribeless person was not endowed with rights under the tribal system. Such rights as he succeeded in obtaining were granted to him out of the necessities of the tribesmen. Perhaps the most significant characteristic of the tribal system is the entire separation of tribesmen from people who were not tribesmen. Non-tribesmen were not of the blood, were not of the ruling caste, were the conquered and the outcast, and into their ranks were poured all those tribesmen, who on account of crime had to be outlawed and deprived of tribal rights. Between tribesmen and non-tribesmen, where we can examine the tribal system in Britain, there were reciprocal rights, but they were the reciprocal rights obtaining among

[1] Skene, *Celtic Scotland*, iii. 152.

[2] Mr Seebohm's two books, *Tribal System in Wales* and *Tribal Custom in Anglo-Saxon Law*, should be consulted on this subject.

strangers, or it may be enemies; they were simply the rights created by tribesmen in order to secure a condition of government over non-tribesmen in lieu of exterminating them from the tribal territory and the tribal precincts. In one important detail this position of non-tribal law is most strongly exemplified, that is, in the *jus conubii.* There was no equality of *conubium* between the tribal man or woman and the non-tribal woman or man. The condition of non-tribalism governed the whole matter, and whether we turn to the Irish, the Welsh, or the English system, it is clear that the non-tribesman or woman was cut off from the tribe in this important respect. No doubt the rule became loosened as settlement became more and more fixed, no doubt it allowed of breaking points in practice, but the rule in its origin and during a long continuance was inexorable, and was intended to be inexorable. It enabled the ruling tribe to keep its place amidst an alien people, and it emphasised the position which blood kinship attained as an important governing political force. The study of the relationship between Roman and Celtic Britain cannot be undertaken without this fact being steadily borne in mind; for to the proud *jus conubii* of the Roman city has to be added the equally proud *jus conubii* of the Celtic tribe. There was much to break down here before amalgamation and assimilation could take place, and it will require stronger evidence than can be produced from the doubtful reading of archæological remains to establish the position that Britain under the Romans was a Britain

of Roman and Celtic peoples, living under a system of Roman culture and aspiration.

I should like very much to dwell upon several other significant features of the tribe, but I must content myself with one or two additional points of a more general nature. The tribe was a community of persons, capable of transplanting itself whithersoever it chose, unattached to any territory, kept together by the ties of common religion, common descent and kinship, and by a multitude of extremely primitive but inexorable rules of conduct and society. When we read of the hill tribes of India in conflict with the British forces of modern times, we have a better idea of the relationship of Celtic and Saxon tribes to the Roman organisation in early Britain than I can convey, except by a lengthy description.

The ancient conditions of the tribal organisation, as it existed in Britain, are now, perhaps, sufficiently clear.[1] A most important phase has next to be examined, which will take us a good way onward in the study before us. This is the relationship of the tribal organisation to the later organisation—that of the nation, the state, and the kingdom. This subject will introduce us to an important distinction between the Celtic and the Saxon tribe, and a distinction which is full of significance to later parts of our enquiry.

The Celtic tribe has not developed into any of the modern institutions of the country. In the form of survival some of its parts have been absorbed

[1] I am working out the important facts connected with the tribal system in Britain in a separate study, *Tribal Custom*, which I hope to publish shortly.

into modern institutions, while others have died out during the developments of historical times. But it is not, so far as I can discover, the parent institution of any modern institution. In England the Teutonic system swept it on one side or absorbed it; in Scotland it survived in the Highlands to a late period, and determined rights to property, methods of local government, and methods of agriculture, only in turn to be swept on one side by advancing political and economical progress; in Ireland it survived to form the groundwork of much of the social discontent of the Irish people only again to be swept away by English legislation and by commercial progress. Above all things, it is to be noted that the Celtic tribal system survived through the Romanisation of Britain. All that we know of it is of post Roman date, and the facts relating to the Welsh tribal system after passing through the period of Roman domination are comparable point by point to the Irish tribal system, or to the Saxon tribal system, which underwent no such treatment.

There is a further distinction when we come to compare the Celtic with the Saxon tribe. The Celtic tribe has ever remained undeveloped, and is revealed to us as a fossil social stratum rather than a factor in a series of developments.[1] On the other hand, the

[1] Mommsen (*History of Rome*, iv. 229) considers the Celts to have reached their highest point of culture, and points out that they were unable to produce from their own resources "a national state." Sir Henry Maine suggests that they would have developed the state. (*Early History of Institutions*, 54-55.) Professor Rhys claims that in the tribal leagues, in the Kymric sovereignty, and in the Picto-Gaelic sovereignty, there are strong evidences of the development towards state government.

Saxon tribal system developed from stage to stage, and finally emerged as an Anglo-Saxon state system. This has undoubtedly formed the foundation of the English constitution, though it was never completed by the Anglo-Saxon; perhaps it could not have been so completed.

This distinction is remarkable. Whether the life blood of the Celtic tribe was sucked up by the Roman Government, whether it was arrested by the Teutonic invasion, or whether its stage of development in this country was not favourable to further development are questions which must be contrasted with the one great question which must be asked of the Teutonic tribal system—was it assisted in its development towards the modern state by the cementing qualities of the Roman power when, as in Britain, it had a concentrated energy kept together partly by geographical, partly by political, facts? This question must form the third and last part of the preliminary enquiry necessary to understand the position of London among English institutions.

III

There is clearly something to be gained by a consideration of how the two systems of polity, the state polity of Rome and the tribal polity of Britain, stood to each other after the Roman Government was removed. Rome had brought with her to Britain for her own use, certain advanced principles

(*Celtic Britain*, 140, 202.) But I do not think Professor Rhys sufficiently distinguishes between "states" and "tribes."

of politics and law, all reduced to a system, and formulated in a philosophical terminology of the highest degree of excellence. When Britain was given up as a province of the empire she inherited from her former masters whatever of their politics and their law could be assimilated by her princes and leaders, or carried on by the Roman citizens who were left behind.[1] If we find British kings advancing to power by the use of methods not Celtic in origin or nature, we shall find also that they have adapted for their purposes, personal or political, the methods of the Roman occupiers of their land. If we find leaders of Roman name and descent advancing to power and assuming the position of Celtic kings we shall also find the methods of the Roman empire. This dual position is a very important factor. The Roman cities and leaders soon found that they could not resist the conquerors who were swarming to the victory without the help of their Celtic countrymen. The Celtic kings and chiefs soon found that they could not resist without the help of the Roman cities and the power and discipline residing therein. Roman leader and Celtic chief had therefore a dual political position. The military leader of the Romans, if he was to attain complete success, had to become a chief or king of

[1] Mr Coote has argued learnedly and acutely that a great body of Roman citizens remained behind in Britain. I do not see the evidence for this. The colonies were not occupied entirely by Roman citizens. Thus Moors were settled at Watchcross, Spaniards at Pevensey, Dalmatians at Broughton (Pearson, *History of England*, i. 43), and so on. The law by which the persons who filled magistracies and offices of honour, and they alone, acquired the Roman franchise was no doubt the rule in Britain, see *ante*, 29.

the Celtic Britons; the Celtic chief or king had to become the military leader of the Roman cities. In this way only could the two systems and the two peoples be formed into one defensive force, and there is evidence both of the strength and the weakness of the dual system in that period of British history which followed the partition of Britain from the Roman empire. The fact of the existence of a dual system, however, is of supreme importance, for it establishes a difference in development and the consequent want of assimilating power which that difference caused; it shows the relationship of primitive politics to state institutions to be not one of easy assimilation or transition, not one where co-ordination of the various elements speaks for a new stage of development, but one where conjunction represents the new condition, with deep and broad fissures occasionally covered by a commanding personality—the personality of an Artorius who became the Arthur of romance—but always showing themselves real again when events proceeded along more normal lines.[1]

Let me at this point put two questions—what

[1] Perhaps Geoffrey of Monmouth and Matthew of Westminister preserve a genuine tradition when they relate the attack of the Cornish Britons upon Alectus in London. The Britons attack the city, but Levius Gallus, the colleague of Alectus, "collected the rest of the Romans in the city of London," "residuos Romanos collegit in urbe Londoniarum," Mat. West. *Flores Hist.* i. 166, and the great fight ended in the slaughter of the Roman Londoners at the torrent below the city called Nautgallus or Walbrook, A.D. 294. The panegyric upon Constantius also contains a passage which refers to two parties in London. The Romans arriving there put to death in the streets a large number of that mercenary multitude of barbarians (*barbarorum*) who had fled thither from the battle. (Eumenius, A.D. 296, cap. iii.)

would be the system of government after the Romans had left Britain? if the iron hand of imperial rule was relaxed, what would be the atoms which struggled for supremacy — struggled towards some form of government? At first we shall find the tendency to be always towards an imperial Britain. Cast off from the Roman empire the ambitious rulers dreamed of a British empire, but it was a British empire on Roman lines. Then we shall find that this tendency was not kept up. There were not the elements for it. Ambitious Roman generals gave it the start, but these out of the way, we have Celtic chiefs taking their place, and these could not dream imperial dreams, for their training had not extended their vision beyond or much beyond the tribe. Gibbon relates the position of affairs at this juncture as follows:

"The independent country during a period of forty years (A.D. 409-449) till the descent of the Saxons was ruled by the authority of the clergy, the nobles, and the municipal towns. Under the protection of the Romans, ninety-two considerable towns had arisen in the several parts of Britain, and among these thirty-three cities were distinguished above the rest, by their superior privileges and importance. Each of these cities, as in all the other provinces of the empire, formed a legal corporation, for the purpose of regulating their domestic policy, and the powers of municipal government, were distributed among annual magistrates, a select senate, and the assembly of the people, according to the original model of the Roman constitution."[1]

The British chiefs would be disposed, Gibbon thinks, to affect the dress, the language, and the customs of their ancestors, while the cities studiously

[1] *Decline and Fall* (Bury), iii. 353.

preserved the laws and manners of Rome — the former, therefore, tended towards the tribal institutions of the Celtic people, the latter tended towards the civic ideals of the Roman empire. Finally the British Church, composed of thirty or forty bishops, met in councils, where the British chiefs and the city magistrates sat promiscuously with the bishops, and tended more in the direction of a state organisation than any other institution of the time.[1] But the Church dissipated its powers by its incessant labours to eradicate doctrinal heresies, and thus practically the British tribal chief and the Roman cities were the only representatives of civil government.

Mr Arthur Evans, in quest of evidence for quite a different purpose from mine, has practically come to the same conclusion. It is probable, he says, that during the period that immediately succeeded the overthrow of direct Imperial Government in Britain, at least its north-eastern parts were administered by the civic officers of the various municipal commonwealths. Unity of action would, to a certain extent, be secured by the provincial conventus of the civitates, the tradition of which seems to find expression in the conventional election of the monarch of Britain recorded in the Welsh triads,[2] just as the conventus of the Illyrian civitates is preserved by the convend of the Albanian clans. And it is noteworthy that the celebrated meeting of the Britons and Saxons,

[1] Mr Plummer notices how Beda indicates this factor in the development of the state, in later times, *i.e.* during Saxon rule. See his notes to *Beda*, ii. 200.

[2] Myvyrian Arch. ii. 63.

the legendary scene of Hengist's treachery, is described by Nennius as such a conventus. The conventus of the civitates was the natural place for electing the military officers, who still continued to perform the necessary functions fulfilled by the *Dux Britanniarum* and *Comes Littoris Saxonici* of late imperial organisation.[1]

These events, succinctly explained by the great historian, and everywhere confirmed by later research, reveal the important and most significant fact that the withdrawal of the Roman government of Britain did not leave a British state, but a number of Roman cities as the political organisation of the country; and it cannot be too thoroughly appreciated that the famous letter of the Emperor Honorius finally surrendering Britain as a member of the Roman empire, was addressed to the cities (πόλεις) of Britain.[2]

We have thus three important facts clearly before us—(1) that the cities of Roman Britain represented to the Romans themselves the form of political government bequeathed by the Romans; (2) that the British chiefs followed their ancient tribal organisation; and (3) that the British Church approached the nearest to the modern idea of state government. City, tribe, and a sort of church-state, are therefore the three institutions which appear in a perfectly incipient form at the beginning of British history. But we must note further. It is true there were cities, there were tribes, there was a kind of church-state, but not

[1] *Numismatic Chronicle*, 2nd ser. vii. 213-214; Compare Rhys, *Celtic Britain*, 104.

[2] This information is from a passage in Zosimus, *Mon. Hist Brit.* lxxix; Giles, *History of Ancient Britons* (Excerpts), ii. 189.

one of these three institutions was related in definite form to another, or to the other two—each was the outcome of an independent set of circumstances, and all were ready to be moulded together or kept apart, according to the course of subsequent events.

Subsequent events did not tell for cohesion. The Roman cities, the seat of Roman power, were no doubt inhabited by Roman citizen-colonists direct from the cultured cities of Italy, if not here and there from Rome herself. They were the centres of all Roman life and traditions. Thus the emperors elected in Britain must have been elected in the cities, and whatever ceremonies and formulæ attended this function were known to and practised by the citizens. There are frequent references in the early chroniclers to the ensigns of royalty being assumed by the emperors elected in Britain,[1] and all the state ceremonial attendant upon the imperial office was certainly carried through in the case of Carausius. His coins show that he chose to affect all the state and dignity of the Roman empire. On the coins and medals of this emperor we read the proud titles imperator Caius Carausius Pius Felix Augustus—the emperor Caius Carausius, the Pious! the Happy! Augustus! On the reverse of different coins are inscriptions indicating different acts in his rule. The words concordia Augg., the concord of the Augusti, record the treaty entered into by Maximian and the acceptance of his title of Augustus; Pax Aug., the peace of Augustus;

[1] Thus Gildas notes of Maximus that he set out from Britain (cap. xiii.) "imperatoris insignibus."

Tranquillitas Aug., the Tranquillity of Augustus! and similar inscriptions[1] plainly indicate the existence of all the pomp and ceremony of the Imperial office. But Carausius was something more than the successful Roman commander, and for a time undoubted emperor of Britain. He is known not only to Roman history but to British legend; for the traditions attached to Caros, King of Ships, by the Caledonians, and contained in the wild exulting poems of Ossian, remind us of events in his remarkable history, and Professor Rhys has expressed his opinion that under the contracted late form of *Ceris* Carausius has given his name to a pool in the Menai Straits.[2] The British historian Nennius gives him prominence as the avenger of Severus upon the Britons,[3] and Geoffrey of Monmouth preserves two facts which may have come down from genuine traditional sources, namely, that he obtained formal sanction from Rome for his gathering of the fleet, and that he sought for the alliance of the Britons against the Romans.[4]

Without attempting to estimate the value of these several records it seems to me clear that we may go so far as to say that they suggest a dual basis for the sovereignty of Carausius, though its

[1] Giles, *History of Ancient Britons*, i. 263; Akerman, *Coins of the Romans relating to Britain*, 110-146.

[2] *Numismatic Chronicle*, 3rd ser. vii. 197, note 9. Giles, *History of Ancient Britons*, i. 260; and see Skene, *Celtic Scotland*, iii. 124, for a suggestive note as to the career of Carausius reacting on Celtic legend and producing for Irish kings an extensive area of conquest.

[3] Nennius, cap. xxiv. and compare the Irish Nennius, cap. xiii. (4).

[4] Lib. v. cap. iii.

true significance cannot be appreciated by the remnants of his history which have come down to us. On the Roman side it is as deficient as on the Celtic. Nothing is said as to the city chosen by Carausius to represent the seat of his new empire, the place which corresponded to Rome in the Roman empire.[1] Perhaps it was not essential, as Carausius claimed to be joint ruler of the Roman empire, and held Boulogne and continental possessions in addition to Britain. But be this as it may, we have it, I think, in clear evidence that the greatest and most successful of Roman commanders who rose to be almost British sovereigns rested on Celtic institutions as upon Roman. If, therefore, we can turn to much later times, when the Roman dominion in Britain had ceased, and find by contrast the same dual element, but resting upon more certain and more developed lines, we shall have gained a great point in the evidence before us.

We shall find this contrast in the greatest of all the British commanders, and it is of great and important significance that when a Roman rose to the position of ruler of Britain, after the fall of the Roman dominion, he goes to the cities for his formal recognition—not to the one great city, the new Rome, but to at least three of the cities of Britain. It was not therefore an exact prototype of Roman rule he was following. It was Roman rule *plus* some new element.

The great Roman to whom I refer was Artorius,

[1] His coins come from the London Mint, for the most part, *Archæologia*, xlvi. 341; Roach Smith, *Illustrations of Roman London*, 10-11.

the British Arthur. He rose to eminence on the ashes of the Roman power in Britain, defending Roman and Celt alike against the invasion of the Teuton. But he was originally not a Celtic hero but a Roman general, whose name Artorius is "demonstrably a Roman nomen."[1] Nennius calls him simply "dux bellorum" (cap lvi.) in a passage which contrasts him with kings of the British. His success as a general gave him the right to a higher title than "dux," and it was in the Roman cities that this higher title was agreed to and conferred.

Of course a great many wild things have been said about King Arthur; but amidst the wildness there are gleams of events which, as recorded, do not help forward the mythic and extravagant parts of the narrative, but which are embedded, so to speak, in these parts as fragments of the sober facts which really belong to history. And these events take us to the Roman cities of Britain, a circumstance the importance of which will appear a little later on.

The chronicler, Geoffrey of Monmouth, picked up his material from popular legend, and this enhances the importance of it when it contains facts known to be true to the circumstances of the time, but not actually necessary to the flow of the story. Let me, as an example, relate his story of Arthur's election as king.

"The *proceres* from several provinces assembled together at Silchester, and proposed to Dubricius, Archbishop of Legions, that he should consecrate Arthur to be their king.

[1] Coote (*Romans of Britain*, 189-190) first pointed out this interesting fact, and gave his authorities therefor. Professor Rhys accepts it. (*Celtic Britain*, 239.)

Dubricius, therefore, grieving for the calamities of his country, *Arturum regni diademate insignivit.*"[1]

There is nothing wild about this statement, so far as it relates to the election of Artorius, a Roman, to be the king of the Britons, to lead them against the Saxons, and his coronation at Silchester, a Roman city. Geoffrey makes Arthur to be the son of Uther Pendragon, and only fifteen years of age at the time of his coronation as successor to his father. This is Geoffrey's usual method of investing traditional facts with the gloss of an unauthenticated British glory. Dismissing the obviously wrong gloss, we find there is something very significant in this record of a crowning at Silchester. After his great victories over the enemies of the Britons, Arthur was also crowned at Caerleon - upon - Usk, another of the Roman cities, which took upon themselves the government of Britain after the separation from the Roman Empire. This ceremony was apparently more magnificent, as I shall presently describe, but why was it necessary at all? Once a king is crowned, according to modern ideas, he is always crowned. But here we have a crowning at Silchester and a crowning at Caerleon, and I interpret the evidence to mean that these cities were more or less independent centres, and to admit the sovereignty of any particular person over them, needed in every case a definite recognition by each city. Silchester could not command or bind Caerleon; what Silchester chose to do with regard to the sovereignty of Artorius did not bind Caerleon to do the same. But this is

[1] Lib. ix. cap. i.

not all. Geoffrey of Monmouth mentions only the two cities of Silchester and Caerleon in connection with the crowning of Arthur. Apart from the doubts connected with the Silchester ceremony, the limitation to even these two cities is arbitrary, on the part of the historian, and not real, as will be seen by the fact that it is recorded in another chronicle that Arthur was also crowned at London.[1] Silchester, Caerleon, and London, three of the most important of the Roman cities, which would have been in a position to carry on Roman traditions, or the new conceptions of semi-independence arising out of Roman traditions, are thus prominently concerned. That no one historian deals with the subject as an accepted whole, but that different historians, taking into account only their limited survey of events, contribute separately the names of the cities where the crowning took place, enables us to understand that the evidence points to the Roman cities exercising independent rights towards the newly risen and successful British sovereign—rights which could only be waved in favour of the sovereign, after the necessary ceremonies for that purpose had been performed. Caerleon is described as magnificent by reason of its royal palaces with lofty gilded roofs—a description which is familiar to us by what is said about this city from another and much later source, the historian Giraldus.[2] Geoffrey's narrative proceeds:

"As soon as the king was invested [*Regem tandem insignito*], he was conducted in great pomp to the Metropolitan

[1] *Chronicle of the Picts and Scots*, edit. Skene, 382.

[2] Giraldus Cambrensis, *Itin. Wales*, cap. v.

Church, supported on each side by two archbishops, and having four sub-kings, viz., of Albania, Cornwall, Demetia, and Venedotia, whose right it was, bearing four golden swords before him. On another part was the queen dressed out in her richest ornaments, conducted by the archbishops and bishops to the Temple of Virgins; the four queens also of the kings last mentioned bearing before her four white doves, according to custom [*de more*]. When divine service was over at both churches the king and queen put off their crowns [*diademata sua*], and putting on their lighter garments went to the banquet; he to one place with the men, and she to another with the women; for the Britons still observed the ancient custom [*antiquam consuetudinem*] by which men and women used to celebrate their festivals apart. As soon as the banquets were over, they went into the fields without the city to divert themselves with various sports."[1]

In this description it is noticeable that direct allusion is made to ancient custom as the foundation of particular parts of the ceremonial; and there are other points not calling for present discussion which point to the trustworthiness of the account.

This succession of the Roman-born Artorius to the British sovereignty represents the very beginnings of the conception of Britain as a state. The ceremonial derived from the independent cities was used to cement the cities and the tribal territories into some sort of connected whole, some approach to the conception of a national government in the sense in which we understand that term.

Artorius had but followed earlier examples as he was followed by later. The Emperor Maximus, one of the Roman emperors elected in Britain, was

[1] Geoffrey, lib. ix. cap. xiii.

defeated and killed by Theodosius in A.D. 388, but his descendants continued to reign in Britain, in Reged and Strath Clyde, in Gwent and Powys, long after the extinction of the Roman power.[1] Aurelius Ambrosius was a descendant of one of the emperors who had reigned in Britain, and his defence against the incoming Saxons and the decisive battle known as that of "Mons Badonicus," or "Caer Badon," the heights above the Roman city of Bath, again bring us into contact with one of the Roman cities of Britain. Palgrave hesitates to accept the opinion of Baronius, that Ambrosius actually continued the legitimate succession of the empire of the west,[2] and Mr Plummer noting this gives us a better mode of stating the facts that "he was the last of those so-called tyrants or usurpers, who, from Maximus downwards, attempted to exercise Roman authority in Britain."[3]

This assumption of the regal title in Britain by Roman generals can be accounted for by several important pieces of evidence, and Mr Arthur Evans has drawn attention to parallel cases on the continent, where a Roman population isolated from the rest of the empire obeyed and perhaps elected a *rex Romanorum*.[4] Mr Evans very acutely suggests that the depletion of the city population of south-east Britain

"consequent on the barbarian ravages was constantly giving greater prominence to the Celtic element even in that part of

[1] Palgrave, *Hist. Eng. Com.* i. 383-415.

[2] *Hist. Eng. Com.* i. 393.

[3] *Beda*, notes, ii. 30; cf. Rhys, *Celtic Britain*, 104-105, 107-110; Guest, *Origines Celticæ*, ii. 172-175.

[4] *Numismatic Chronicle*, 3rd ser. vii. 216.

the island which, during the past four centuries, had been most thoroughly Romanised; and it was no doubt to a great extent the natural outcome of these altered relations that the title of *rex* now comes to the fore in British annals."

But this growing prevalence of the regal title in Britain must not by any means be taken to indicate the abrogation of all Roman tradition. A *rex Romanorum* was no longer an anomaly.

"As a title it afforded a convenient bridge to unite the fealty of Roman and barbarian. But the very fact that such a title obtained a currency among the isolated patches of Romanic population that still raised their heads above the barbarian flood, is a witness to their despair of setting up pretenders to higher imperial rank. The time had gone by when a Maximus could go forth from his British home to Rome or Trier, or a Carausius could even secure his sway over so much of the Roman world as was contained within the isle of Britain."[1]

Nevertheless, the over-kings of the British, such as Arthur was, were sometimes called by the Welsh chroniclers "Kessarogion," *i.e.* "Cæsarians,"[2] and I think the fact important. Professor Rhys also considers the Welsh title of "Wledig" or "Gwledig" to represent by unbroken tradition the *Dux Britanniarum* of imperial times,[3] while the fact that one of the ancestors of Cuneda, the great ruler of the Cymry, is called "Padarn Pesrud," literally, "Paternus of the Red Tunic,"[4] is additional proof that the Celtic chiefs relied for the symbols of their sovereignty, and perhaps for

[1] Evans, *loc. cit.* 215-217.

[2] Rhys, *Celtic Britain*, 2nd edit. 135.

[3] Rhys, *Celtic Britain*, 104; Rhys and Brynmor Jones, *Welsh People*, 119; Palgrave, *Hist. Eng. Com.* i. 415.

[4] Rhys and Brynmor Jones, *Welsh People*, 119.

some of its powers, upon the practices and formulæ of the Roman empire. The precise value of all this evidence as to Roman generals becoming British princes, and British princes succeeding to the military positions and assuming the official dignity of Roman governors, is perhaps difficult to estimate correctly, but it is abundantly clear that it shows dual influences at work, namely, Roman influences and British influences.

I am by these references linking together the scattered remnants which show the earliest signs of the development of the British state. Let me take a step forward. The earliest of the Saxon leaders were war-chiefs, leading warriors to battle and to victory. They were not even tribal kings. But after the lust of conquest had taught them how to act in this complex territory of Britain, with its British chiefs, its Roman sovereigns such as Artorius and Ambrosius undoubtedly were, its Roman cities, where dwelt all the more important insignia of sovereignty, they sought for a sovereignty which their own English followers could not have granted even if they would, because it included a jurisdiction which was not theirs to give, namely, a jurisdiction over the conquered Celt. They became not only kings of the various Saxon kingdoms, kings of sovereign descent along a royal lineage of traditional dignity and sacredness, but Bretwaldas of the whole island—that is, sovereigns of Saxon and British alike, imperial sovereigns having kings or sub-kings under their rule,[1] lands, territories, and possessions which did not belong to them as Anglo-Saxon chieftains.

[1] Mr Plummer in his notes to *Beda* points out that the historian

I do not discuss this institution at length; my object is merely to show that after the death of the real Roman sovereigns, Artorius, Ambrosius, and the others, sovereigns of Saxon descent took their place, and took their place in Roman fashion.[1] The first of these, Ella (490-491) was "Bretwalda of all Britain," although his own little native kingdom of South Saxons was situated in a remote corner of the island. There is no mention of the manner in which he obtained the dignity, but it must have been by the aid or the request of the conquered Britons after the merciless slaughter and overthrow of Anderida, the British city. Æthelbert (560-616) adopted on his coinage the emblem of the wolf and twins from the coins of Constantine,[2] and according to Beda "introduced judicial decrees after the Roman model," *juxta exempla Romanorum.*[3] Eadwin (617-633) adorned himself with all the insignia of Roman authority. His dignity, says the historian Beda, as of a special thing to be observed

"was so great throughout his dominions that his banners were not only borne before him in battle, but even in time of peace, when he rode about his cities, towns, or provinces, with his officers, the standard-bearer was wont to go before him; also when he walked along the streets, that sort

distinguishes clearly "between the immediate dominions or regnum of any king, and the imperium or overlordship which he might exercise over other Saxon kingdoms or Celtic tribes," ii. 86.

[1] This is Palgrave's view of the Bretwalda. (*Hist. Eng. Com.* i. 562-568.) Freeman, of course, opposed it. (*Hist. Norm. Conq.* i. 27-28, 134-139, 542-556.) Cf. Kemble, *Saxons in England*, ii. 8-22; Lappenberg, *England under Saxon Kings*, i. 125-128.

[2] *Numismatic Chronicle*, 3rd ser. vii. 195.

[3] *Hist.* ii. cap. v.

of banner (*illud genus uexilli*) which the Romans call Tufa, and the English, Thuuf, was in like manner borne before him."[1]

These are real continuations of Roman institutions. It must not be considered, as Sir Francis Palgrave remarks, that these insignia were merely toys or baubles: visible symbols of dignity possess considerable influence under all circumstances, and men who attempt to decry the importance of the outward tokens of political power are often most influenced by the objects which they deride; in the ruder states of society the insignia of authority are even still more important, they speak a language which cannot be misunderstood, they are the only means of declaring and notifying the station and rank of the sovereign, for their language is symbolism and not words, and symbolism is required when many peoples and many tongues exist.[2]

If we may thus specialise the evidence which tends to show that the Roman system of government had its influence upon later events, we must not put this influence at too high a value. State ceremonial which implies imperialism, merchant law which implies commercial economics, municipal law which implies a distinct city unit of political strength, were powerful forces, but they did not eradicate tribal influences. They broke up the tribes, but entered upon the territorialism of the tribes, and this broke up the cities. The two parts of the dual system acted and reacted upon each other,

[1] Beda, lib. ii. cap. xvi.

[2] Palgrave, *Hist. Eng. Com.* i. 564-565.

and the city system being destroyed, we can almost see the Anglo-Saxon state emerging from the chaos of tribal conflict and foreign invasion, and based upon a wider franchise, so to speak, than the Roman state had been. It began with the tribal territory and developed with the continual merger of tribal territory with tribal territory, of kingdom with kingdom, until the whole area of the country was included as part of the state. The remaining part of the state consisted of the persons living in the tribe, kingdom, or country—persons and territory combined thus becoming the fundamental conception of the Anglo-Saxon state.

I cannot, however, discover that the Anglo-Saxon state, though commencing on this broad basis, ever developed beyond the primary stages. If it threw over the city as a nucleus, in favour of the country as a basis, it did not allow itself full swing within its own conceptions. In Beda's time there was no Teutonic name for the whole country.[1] The Saxons applied the term "Brittania" to the Celtic parts of the island,[2] and the Celts applied the term "Saxonia" to those parts of Britain occupied by Teutonic tribes,[3] but there is no equivalent for the Anglo-Saxon state. Indeed, it seems quite clear from the first instance of a sense of unity among the English tribes, when Oswy and Egbert met in joint deliberation "on the state of the Church of the English," that the impulse arose, not from civil causes but from ecclesiastical.[4]

[1] Plummer, *Beda*, ii. 149.
[2] Haddan and Stubbs, *Concilia*, iii. 477; *Mon. Hist. Brit.* 471.
[3] Beda, iii. xix., and Mr Plummer's note, ii. 172.
[4] Beda, iii. xxix., and Mr Plummer's valuable note, ii. 200.

The same evidence meets us throughout the Anglo-Saxon period. No monarch ought to express the position of the state in the terms of his own title more thoroughly than the great Æthelstan. At his accession he styled himself "King of the Angul-Saxons." In 927 he called himself "Monarch of all Britain"; in 929 he was administering "the kingdom of all Albion." But these territorial titles did not fit easily into the Anglo-Saxon conception of the state, and in 933 he called himself "King of the English folk and of all the nations dwelling with them on every side" — *Angligenarum omniumque gentium undique secus habitantium rex*—a sufficient indication of the want of political cohesion among the several elements in the country. Two later titles assumed by this king show the same state of instability. In 934 he was "Angul-Saxon king and Brytenwealda of all these islands," and again, "Basileus of the English and at the same time Emperor of the kings and nations dwelling within the bounds of Britain."[1] All this striving after political unity by one of the greatest sovereigns of the Anglo-Saxon race, with its undoubted failure, shows clearly enough the new condition of things which had arisen. The Celtic and Teutonic tribal systems did not admit of the terms country or nation; the Roman political system did not admit of these terms. And yet towards the close of the Anglo-Saxon kingship, we

[1] These titles are contained in the documents published in the *Cod. Dip.* mxcix. mc. cccxlvii. mcix. mcx. cccxlix. See also Mr W. de Gray Birch, *Titles of Anglo-Saxon Sovereigns* (Index Society), and Green, *Conquest of England*, 241, 269.

find the idea of country, the conception of a national system of government approaching towards its completion. And we cannot doubt that the work of the newly developed tribal kingship of Celts and Teutons in Roman Britain, where the cities were the centre of institutional life, is to be seen in this result.

We have the Saxon kings attempting to succeed to the imperial sovereignty of Britain, attempting therefore, though perhaps unconsciously, to weld Britain more closely into a state, and so to get rid of its independent parts. It was the existence of the independent parts which made their action possible. Theirs was not a settlement upon virgin soil. They had to reckon with forces already strongly planted, and they set about their work under the direct inspiration of Roman ceremonies and dignities. I think this inspiration came from the Roman cities of Britain, and this view may be confirmed by the attitude of the Anglo-Saxon sovereignty to the cities.

At this stage we come across a point in the history of London. I have said above that the independent crowning of Artorius at Silchester, at Caerleon, and at London revealed the independence of the cities with reference to each other and to the sovereign chief. A still more significant fact reveals the independence of London. London was not conquered by Hengist nor was it ever incorporated into the kingdom of Kent. It was afterwards nominally included in the kingdom of the East Saxons, and the monarchs of Kent and Essex exercised certain powers over the city, but, strictly speaking, we have

no proof that London ever formed part of the early Saxon kingdom.[1] This cannot be said of any other Roman city of Britain. They were either conquered or incorporated. But London was neither conquered nor incorporated. Apart from this negative proof of London's independence, there is something like positive proof, for in a charter of King Eadgar the fact is noted that on the site where Westminster Abbey now stands, in *loco terribili*, a place of dread, a temple, had been erected by the pagan kings, but was then, A.D. 604, dedicated to the service of St Peter by the "King of London," sub-regulo Londoniæ.[2] Ethelbert was the over-king, the Bretwalda, hence there was only the sub-king of London; and the fact, isolated though it is, shows that London only became subject to a sovereign by accepting him as their king, or over-king, and clothing him with all the ceremonial known to them from Roman traditions. The independence of London and its connection with the sovereignty is shown in another direction, for significance is undoubtedly to be given to the statement in the laws of Howel Dha, "which are legal treatises once in practical use," that Dyfnwal Moelmud was king "before the crown of London and the supremacy

[1] Palgrave, *Hist. Eng. Com.* i. 414; Lappenberg, *History of England under the Anglo-Saxons*, i. 112; Green, *Making of England*, 98-113. Even at so late a period as 1016, and during the adjustment of so important a question as the Danish settlement in England the text of Florence states the districts to be given to Edmund to include "East Saxoniam cum Lundonia." Similarly in 895 it was "magna pars civium Lundoniensium, et de vicinis locis quamplures" who attacked the Danes. This separate treatment of London is most significant, though I do not note that it has been referred to. See Plummer's note to *Saxon Chronicles*, ii. 199.

[2] *Cod. Dip.* dlv.; Elton, *Origins of English History*, 412.

of this island were seized by the Saxons."[1] Still further we find that after the first rush of the English conquest was over, and when Christianity was winning its way, the formal independence of London is indicated by the position of the bishops who governed it. The English bishoprics were universally equivalent with the English kingdoms, and these were tribal, not territorial. Presently, I shall be investigating this side of Saxon history, but here it is only necessary to point out the contrast. Instead of being bishop of the East Saxons, Mellitus is called bishop of London, Earconwald is bishop in the city of London, Waldhere is bishop of the city of London, Ingwald is Lundoniensis antistes,[2] and London is the only spot of Roman Britain which in this connection retains its territorial characteristic in the midst of tribal conditions.

IV

This is where I must leave the preliminary part of our subject. It has led us back to London, the city with which we are immediately concerned, and we may attempt a rough summary of our work. We have seen Roman cities handing on their traditions of Roman ceremonial to British and then to Saxon chiefs; we have London possessing a king of its own, who had become underlord to the imperial Bretwalda of Britain, but who submitted to no tribal king as conquered to the conqueror. We have city

[1] Rhys and Brynmor-Jones, *Welsh People*, 130.
[2] Plummer, notes to *Beda*, ii. 178.

government and tribal government in direct antagonism to each other, and we seem to have the growth of the Anglo-Saxon state in its very earliest stages. These results are most significant, and they mark the relationship of London to the rest of the country during this beginning period of English history. Moreover, we seem to have arrived at a stage where the use of the terms city and state are once more admissible, though in a sense different from that in which they were used to explain the origin of Roman institutions and the basis of their expansion under the imperial system. The indiscriminate use of these important terms by our older historians and by some modern writers is the source of immense confusion and many mistakes. I am sure that they cannot properly be used in respect of purely British institutions prior to the Roman conquest or during the Roman occupation. They can only be used in respect of Saxon institutions in a limited degree, and only for the later periods. We no longer have the city of ancient politics, a sovereign city, not included in and subordinate to a sovereign state, but independent, with dependent territory immediately around it, conquered by its arms and ministering to its wealth and needs; nevertheless we are conscious that a large part of this conception of the city was kept alive even during Roman imperial dominion, allowing for a reversion to it when the Roman sovereignty ceased in Britain.

We thus get an entirely new view of the relationship of the city to the state. We find that the city grew out of circumstances and

conditions not imposed by the state, perhaps in opposition to the state; the state grew out of circumstances and conditions different from those out of which the city grew, perhaps inimical to those out of which the city grew. These are most impressive facts which make an enquiry into the relationship of a great city to the state of great and especial interest. To trace out when the city was developing and the state was decaying, when city and state were both developing, when the state passed the city in range of development, is a lesson in human affairs of great importance. That this is the necessary course of our enquiry is a fact full of significance. It implies a different political origin for the city and for the state. If we have to look for the development of the English state from the Anglo-Saxon organisation we must look elsewhere for the development of the city. And we must expect to discover a large amount of antagonism between the two. No doubt the Anglo-Saxon organisation contained the germ of the city, just as in the Greek, Roman, Celtic, and other European organisations, but this germ did not have the same fortune in Anglo-Saxon history as it did elsewhere. It produced in fact the dependent burgh but not the independent city, and it is in this dual development that we recognise the dual origin.

There is a point in the history of the city and the state where the two institutions meet, and a most important point it is. That point was passed in ancient Greece by the triumph of the city; it was passed in ancient Italy by the triumph of the state

in actual fact, though in nominal and sentimental conceptions it was the triumph of the city; it was passed in modern Europe by the unquestioned triumph of the state both nominally and actually.

There are some great cities of modern Europe wherein this passing point in the development of city and state is of exceptional value. Paris is one of these cities. Hamburg is another. But to Englishmen there is only one of supreme interest, namely, London. There are other cities in Britain—York, Lincoln, Winchester, Canterbury, and Exeter, for instance, which contribute notable facts towards elucidating the subject, but none is of such sustained and continuous importance as London. This is not because London is now the capital. It is that London throughout all English history has held a remarkable position. We can, as it appears to me, only thoroughly understand that position by studying it in relation to its origin as a city in an unformed state, and this will be our quest.

CHAPTER II

IF I am right in concluding that the history of English London begins as a city in an unformed state, it is clear that we must go back to Roman London for its beginnings as a city. It is one of the not numerous English cities whose site is identical with that of a Roman city. The Roman city of London swallowed up all that was Celtic. It took its name, it incorporated its worship,[1] it swept away its old habitat on the pile dwellings at the junction of the river Walbrook with the Thames,[2] and all that was Celtic was turned on one side when Roman London began its career as a city.[3] There is, therefore, nothing further back than Roman London to which to refer for later influences of importance.

In the first place, it must be emphasized once more that the geographical position of London in Roman

[1] Rhys (*Celtic Heathendom*, 129) deals with the worship of the Celtic god "Lud" at London. See *post*, 111, 112.

[2] General Pitt Rivers was the first authority to identify the remains discovered on the banks of the old Fleet River as pile dwellings of the ordinary Celtic type. See *Anthrop. Rev.* v. p. lxxi.; Munro, *Lake Dwellings*, 460. Mr Reader has worked up this subject in an extremely interesting study "on the primitive site of London" in the *Arch. Journ.* lx. 137-204, 213-235.

[3] Dr Guest, in *Origines Celticæ*, ii. 403-406, summarises the most important evidence as to the position of Celtic London, when Aulus Plautius made his great attack upon the Celtic tribes.

Britain did not make London a British city. This is important, because in almost all our histories we find it constantly so called. London was a Roman colony, dependent upon Rome for its military position, dependent upon Rome for its institutions, dependent upon Rome for its commercial greatness. Its place in Britain is a matter of mere geography; its place on the Roman road system is more than geographical, it is political, and this fact determines its position as a city.

It was thus that London took her place in the Roman empire. Roadways converged to her. The two great roads, Ermyn Street and Watling Street, entered Roman London at our now-called Bishopsgate and Newgate, and connected the city with all parts of Britain. In Mr Green's words,

"the route which crossed the downs of Kent from Richborough to the Thames linked the roads that radiated from London over the surface of the island with the general network of communications along which flowed the social and political life of the Roman world."[1]

By these means towns grew up to an importance quite out of proportion to their native capacity. London became a great centre of Roman commerce. Her life was connected with all outer life by the great causeways which the Roman soldier had built; her wall girt her round securely from the immediate outer world, and when her citizens looked for the means of gaining the necessities of life and wealth, they took their stand at the city gates, and looked up the roadways which led to Verulamium, Etocetum,

[1] *The Making of England*, 3.

and Uriconium; to Duromagus and Eboracum, to Portus Magnus, and to continental Rome.

This is one of the most important and distinctive facts to notice in connection with Roman London. As soon as Rome had brought it, by means of her great system of roadways, into the imperial system, development moved at a pace measurable, not by British skill but by Roman necessities. This important factor in the history of Roman towns has not been sufficiently dwelt upon and enforced. It accounts for a great deal that is otherwise unaccountable. It bridges over years of rapid progress with a history that belongs not to Britain but to Rome; it accounts for the rapid uprising of London into Augusta, and it accounts for her wonderful progress and wealth during the Roman rule. But all this time London is the London connected by roadways with the commerce and progress of the Roman world; her British history, if she had any, is past and gone, and one has to think of her, not as situated in Britain, but as situated on the Ermyn and Watling Streets, which were connected with all other parts of Britain, and which brought London more closely into connection with other cities situated on the roadways than with the natives who still occupied the open country. She dominated the country round her just as all Roman cities did; but she was independent of it, and used it not for existence but for her own purposes, as contributory to her wealth and luxury or necessities. Thus, then, the distinction which belongs to Roman London, and which is very important to our present subject, rests upon its con-

nection with the Roman world, its place on the Roman roadways, and not upon its connection with the Celtic Britons who lived near it, nor its place on the map of Britain.

I

There were two Roman Londons, a Roman London which was simply a military centre developing irregularly towards a commercial centre and a Roman London, which was a great commercial centre and also a great governing centre. To trace out these two Roman Londons is not merely an archæological enquiry, for it may be that the relationship of one to the other will reveal points of interest which we may have to note, and which will prove of value in estimating the position of London after Roman times. Of earliest Roman London we have singularly little information, but the little that exists shows that it never quite died out as the original site, and this is the point which I think has a bearing upon subsequent history and upon which we are entitled to lay stress.

We first hear of London in historical records from Tacitus, who, relating the revolt of Boudicca in A.D. 61, tells us of the movements of the Roman commander, Suetonius, who decided to leave London undefended, and to meet the revolted Britons in the open. London, says Tacitus, was not yet honoured with the name of a colony, but was considerable as the resort of merchants, and for its trade.

From the very scanty notice by Tacitus much has

been deduced — more a great deal than I think is justified. But it seems clear first, that London was defended by a military garrison, for Suetonius is stated to have considered whether he should make London the seat of the war but decided against that course because of the weakness of the garrison;[1] secondly, that this means the exisence of a fortified camp there; and thirdly, that its importance as a commercial centre had already begun and had caused a considerable extramural London to have developed around the fort, and so made it impossible to defend.[2] This appears to me all that can be gathered from the words of Tacitus, but it is sufficient to indicate the condition of the earliest Roman London.

It will be an interesting and valuable factor in the history of London, as an institution, if it can be ascertained, that this earliest Roman London has not passed away without leaving evidence of its existence. In the first place, it must be remembered that it gave way to a later Roman London, and it might well be that the later city did not preserve anything of the older city. In the second place, the later city was finally occupied by the Anglo-Saxon settlers, and it might well be that any relics preserved by the later Romans would not survive the Saxon occupation. If, therefore, there can be proved good evidence for showing that traces of the earlier city survived down to the Saxon occupation, there will be strong evidence

[1] Tacitus, *Annals*, xiv. cap. xxxiii.

[2] Mommsen (*Provinces of the Roman Empire*, i. 177) agrees that London arose from its early commercial importance under the Roman administration.

for asserting that a considerable conserving influence must have existed throughout the entire period. And it will then become an important question, to be dealt with a little later on, as to what this conserving influence might have been. To have conserved Roman institutions or relics of Roman institutions through a Roman reform and an Anglo-Saxon domination must have needed a specially strong force, and clearly this force is a factor which cannot properly be neglected in considering the earliest history of London. It will indeed amount to a discovery of something which must be reckoned with, and reckoned with as a living force, long after the natural period to which it belonged had passed away; and it is exactly evidence of this kind which, in the absence of direct evidence, tells of conditions favourable to the continuity of Roman institutions through a period which, in consequence of the silence of historians, has been claimed to supply evidence of complete and absolute destruction. There is no direct evidence of the destruction and wiping out of Roman London. There is only the indirect evidence of late Anglo-Saxon occupation. If from an examination of the circumstances of Anglo-Saxon occupation, we fail to find evidence of the creation of an English London, as a city of the English state, and if from the circumstances of Roman London, we find evidence of the conditions under which Roman London might have continued in Anglo-Saxon times, even though in an imperfect and truncated form, we have before us the elements of a problem in the history of English institutions

which is of most important significance. It is this problem which may be solved by an examination of some of the facts relating to Roman London, and its solution will stamp the character of all subsequent investigation into the history of London as an institution.

The first step is to ask for the evidence as to traces of the earlier city in later times. We cannot rely upon archæological discovery, because even when opportunity has served by reason of excavations for building or other purposes, no systematic record has been kept. Great architects, like Sir Christopher Wren, and Sir William Tite, antiquaries like Mr Roach Smith, Mr J. E. Price, and others have put on record their discoveries, but this is not enough for scientific purposes. We must rely upon more indirect evidence. Starting with a fact of immense importance to the Roman system of government, namely, that the Romans never buried their dead within the walls of a town, but always outside, along the sides of the great roadways, in cemeteries skirting the town, we may enquire whether the archæological discoveries of Roman London show us an area, within which no burial remains have been found, but revealing other remains, and an area outside the first area, but within the later Roman London, where burial remains as well as other remains, have been found. The significance of these points is centred round the fact of burial within the walls of later Roman London, which can only mean without the walls of earliest Roman London, and of non-burial within an internal area whose external boundaries are formed by the burial area.

LUNDINIUM (FIRST PERIOD.)

0 50 100 200 300 400 900 1200 1500

SCALE OF FEET.

As a matter of fact, there is such an area of non-burial inside an outer area of burial, both areas being within the walls of later Roman London. No funeral relics have been found between Walbrook and St Dunstan's Hill, near the Tower, and these places may well mark the western and eastern boundaries of early Roman London.[1] It may even have reached as far as the Tower, though I think not. Mr Loftie has indeed suggested that the circle formed by Little Tower Street, just where it joins Idol Lane, may have been caused by one of the bastions of the eastern wall.[2] The northern boundary appears to have been a little south of where Lombard Street now is, for traces of the ditch have been found in that neighbourhood, and the Langbourn, that is the Long bourn or stream from which Langbourn Ward is named, ran from this north-east corner to the Walbrook on the west, and was doubtless part of the ancient boundary of early Roman London. Funeral relics have been found in St Dunstan's Hill on the east and Lombard Street on the north, but not between these boundaries and the river. Further than this remains of very massive walls have been found on the west at Bush Lane, near Cannon Street, the railway station to this day resting on what appears to have been one of the bastions, and on the east at Mincing Lane. Mr Arthur Taylor makes an additional point of much value in the place of entry of Watling Street into this area, noting that it is there deflected into Cannon Street, and changes its

[1] See *Archæologia*, xxix. 146, 219, 268; xxxiii. 103-104, 112

[2] *History of London*, i. 31.

name, following, in both circumstances, the course taken by Roman roads entering a city.[1] Then there are the names Dowgate on the west, preserved in Dowgate Hill, Billingsgate on the east, preserved in the famous fish-market, Ebbgate about where old Swan Stairs now is, and St Botolph where Botolph Wharf now is, both on the south, all of which names indicate the sites of gates which were not part of the later Roman city.[2]

If these are clear indications of the beginning of the city—the ancient Roman camp walled in and fortified to command the Thames at the highest point of land suitable for a camp, and at the narrowest part of the river so far inland from the mouth, we may take our next step. Can we add to these indications any other remains of this earliest city? Are we indebted to it for any boundaries, for any topographical features? Are there any other signs that this ancient Roman camp has survived even the wreckage of modern days? It is well to put these questions and to ascertain how far they can be answered, because it is not easy to penetrate into this inner London through all that surrounds it, and it is essential we should do so. If this original London was kept as a sort of inner defence within the walls of the extended London, or if it was a place of any sort of sanctity to the later Londoners

[1] *Archæologia*, xxxiii. 105.

[2] Mr Reader gives the best summary of this evidence from discoveries in *Arch. Journ.* lx. 137-204, 213-235. See also Tite, *Antiquities of Royal Exchange*, p. xviii.; Price, *Roman Pavement at Bucklersbury*, and *National Safe Deposit Discovery*, ii. 32. Mr Taylor suggestively fixes Dowgate at Cannon Street on the west and Billingsgate on the east. (*Archæologia*, xxxiii. 106-109, 121.)

of the Roman city, which sanctity was kept alive until the Saxons had included London in their political system, it will help us considerably to understand the position of Roman London in its later stages. Probably in all cities of Greece and Rome, where city life was an ideal aimed at by the philosophy and the religion of the age, there was a sacredness attached to the earliest foundation site. Religious ceremony founded the city; religious duty kept alive the reverence for the most ancient site consecrated to the original foundation. It was so in ancient Rome.[1] It was so, I suggest, in Roman Lundinium.

The next point relates to the boundaries. If we begin on the east and work along the boundaries of Billingsgate ward, we find the line of the ward proceeds from the river a little to the east of Billingsgate

[1] It is well known how sacred the remains of earliest Rome were kept. The sacredness of the earliest Rome was marked by "the den of the she wolf, who suckled Romulus and Remus," "the fig-tree under which the twins were stranded by the retiring waters of the Tiber; the hut of Romulus thatched and wooden; the hut of Faustulus the shepherd, who found and adopted the twins," and other remains in the Roma Quadrata. See Middleton, *Ancient Rome*, 1885, 56-58, 85-87; letter from Dr Lanciani on the niger lapis of the comitium in *Athenæum*, 4th February 1899. See also Mommsen, *History of Rome*, i. 51-54; Niebuhr, *History of Rome*, i. 220-240. For Athens, see Miss Harrison's *Primitive Athens*, cap. ii. The evidence of similar survivals in Roman cities in Britain would help us to understand the London evidence. A reference to some facts about Monmouth is of considerable importance in this connection, and I quote the following relating to Roman Monmouth: —"The suburb of Over-Monnow is considered to be the site of the most ancient part of the town, and it is perhaps on this side the Monnow that the Roman town of Blestium stood. The ancient earthwork called Clawdd dû (the black dyke), which encircles the town, is probably the boundary fence of the first town that was built here. Over-Monnow is also called Little Monmouth, and the Cappers Town, the latter term being from the cappers, who here carried on an industry once famous. At one time Little Monmouth seems to have been governed as distinct

market, runs at the back of Idol Lane, and turns square off just above the church of St Margaret Pattens. It then proceeds westwards, parallel more or less to the river, crosses Rood Lane and Philpot Lane, and is stopped by the boundary of Bridge ward. This ward can be crossed, however, by the boundary of the parish of St Leonard, from whence, continuing by the boundary of Candlewick ward and extending along the boundary of the parish of St Swithin, the line returns sharply towards the river, joining the parish boundary of St Mary Bothaw and All Hallows the Great, ultimately reaching the river by Dowgate Hill.[1] These boundaries make up a rough parallelogram, and if we strike out the irregularities as being due to the effects of later events, we have remaining a fair indication of the site of the Roman camp of early London. The practical preservation of these boundaries in the ward boundaries is of remarkable significance, and it is also significant that the area included within them is practically identical with the non-burial area.

Let us look inside this area. Cannon Street and

from the town over the river. In 1442 King Henry IV. issued his warrant to the mayor of the town of Great Monmouth, commanding him to certify to the council of the duchy of Lancaster the names of all the burgesses as well within the town aforesaid as within the town of Little Monmouth. (*Monmouthshire Gazette*, February 1850.) It is supposed that Little Monmouth had at the time a mayor and a corporation of its own; at all events, though no longer having any powers, a mayor of Little Monmouth was until recently appointed, and as late as 1832 William Taylor was so described." (Bradney, *History of Monmouthshire*, i. 15-16.) Cf. Leland, *Itinerary for Wales*, edit. Miss Toulmin Smith, 46.

[1] Sir Christopher Wren discovered remains of a morass up as far as Cheapside, which he regarded as the northern boundary of the early city. (*Parentalia*, 265.)

Eastcheap run about the centre of the area from west to east, while a whole series of streets cuts this central line at right angles, running from north to south of the city. All the cross streets not at right angles are modern improvements, and this rectangular arrangement of the streets of the inner London afford still further testimony, I think, to the permanence of Roman topography. There is one other fact of importance, and that is the position of "London Stone" at the western point of this inner area. Much has been written about the origin of London Stone, and it has always started from the fact that it was in the middle of Roman London. I am inclined to look at it from its position on the western extremity of the first Roman London.[1] If it indicated to Roman Londoners of the second city a sacred point reminiscent of the earlier city, its later history would be largely accounted for. Its topographical position is the first help to such an indication, and when we have added the undoubted sacred character attributed to it throughout all later history, and of the principal features of which I shall have much to say presently, the conclusion will, I think, be justified that London Stone represents the sentiment of Roman Londoners for the early city and camp which was enclosed in Lundinium.

If we next proceed to examine the external territory of the earlier city, we obtain perhaps the

[1] It was removed from its original site in Cannon Street to its present locality in the wall of St Swithin's Church towards the close of the eighteenth century. (*Liber Albus*, glossary, iii. 334; *Archæologia*, xl. 67; Wren, *Parentalia*, 265.) For its later history see *post*, 149-152.

most significant evidence of all. On the east and north-east is the low-lying land indicated by the name Fenchurch. On the north, throughout its entire length, is the straggling Langbourn ward, which was once thought to represent the ditch or moat of the ancient camp, and which certainly represents the boundary of an external swamp or marsh. On the west is Walbrook, a river flowing into the Thames, and of considerable width. The western side obviously therefore affords the best, if not the only, point where such a monument as London Stone could be preserved, and it is exactly on this western side that another curious fact comes to light, namely, that the parish of St Martin has the additional word "Pomroy" added to it, the great significance of which becomes evident when taken as a factor in the argument for the continued memory of the original Roman London. It will be best to show this by turning to an analogy from another Roman city in Britain, namely, Dorchester, which still retains the site of its Roman walls, its gates, its Roman shape, and its amphitheatre. Outside the western wall of this city is an open space, the playground of the citizens to this day, which is popularly called "The Pummery," and I identify this popular name with the more dignified addendum to the saint name in London "Pomroy." Is there, then, any significance in this name? I think so, for a Roman town was always provided with an unbuilt space around it called the *Pomœrium*, and in the second name of the London parish, and the traditional name of the Dorchester playground, we have two

identical relics of the ancient Roman system of laying out a city.[1]

The Pomœrium was sacred, and it will be well to recall some of its characteristics in the eyes of the ancient Romans, for surely it is a remarkable coincidence that on the western side of this ancient London, we have two relics left to modern times, which tell of the earliest ideas of the Romans concerning the foundations of their city, namely, London Stone and the Pomœrium. The outer boundary of the Pomœrium was marked by stones set up at intervals (*cippi, cippi pomerî, certis spatiis interjecti lapides*), and this line defined the limit within which the auspices in regard to all matters regarding the welfare of the city itself (*urbana auspicia*) might be taken.[2] Bearing in mind all that this meant in Roman constitutional history and the development of ideas associated with the ritual of the Terminalia,[3] it is not too much to suggest that London Stone may have represented to Roman Londoners all the traditional sacredness of the

[1] Mr Alfred White was the first, I think, to suggest the possible derivation of the London Pomeroy from the Roman Pomœrium, and so good a scholar as Mr Coote (*Romans of Britain*, 361) accepted it. But neither of these authorities had noted the parallel case of Dorchester, which adds so much weight to the suggestion. Of course the statement that the wards were named after the Aldermen (*Liber Albus*, i. 34) suggests another derivation, but, on the whole, I do not think the suggestion that it is derived from the Pomœrium is shaken.

[2] This is described with all necessary references by Ramsay and Lanciani (*Manual of Roman Antiquities*, 6). That every Roman city, as daughter to Rome herself, had its own Pomœrium may be gathered from the description by Varro of the ceremony of founding a city (v. 143).

[3] Mr Warde Fowler (*Roman Festivals*, 324-327) has a most admirable article on this point.

earlier London, perhaps marking the entry into the inner city from its Pomœrium. In any case the western end of this ancient city seems to have preserved in its archæological remains a suggestion of special importance or even of special sanctity, and if presently it becomes possible to turn from archæology to custom and recover from this source further evidence of the same class of idea, I shall claim a cumulative value for the testimony which has been preserved to our own days of the conserving force which belongs to the inner Roman London.[1]

One small piece of archæological evidence of the fact of an earlier Roman London may be noted from the use of old remains for the building of the newer city. Thus one of the most remarkable features of the southern wall of the city facing the river is that many of the large stones which formed the lower part were sculptured and ornamented with mouldings denoting their use in the friezes or entablatures of edifices, at some period antecedent to the construction of the wall. Fragments of sculptured marble which had also decorated buildings and part of the foliage and trellis work of an altar or tomb of good workmanship had also been used as building materials for the wall.[2] In the bastion of the wall excavated in Camomile Street, Bishopsgate, there were discovered the figure of a lion in bold relief, the head of a human figure of colossal size,

[1] Perhaps Geoffrey of Monmouth preserves an ancient tradition connected with the western gate of the first Roman London in the story of Cadwello setting up there a brazen horse as a terror unto the Saxons (lib. xii. cap. xii.).

[2] Roach Smith, *Illustrations of Roman London*, 19.

and a broken statue of a Roman soldier, all embedded in the solid masonry of the wall.[1] Other examples have been recorded, but these are sufficient to illustrate the nature of the evidence.

I am sure there is enough evidence here to supplement the researches of archæologists who have laboured so long in their endeavour to find the site of the Lundinium which was destroyed by Boudicca. It is fragmentary, but it is also cumulative. It takes us into regions of research which are not generally explored in matters of this kind, but they are regions which essentially belong to the subject, and which not only tell us of early Lundinium but also something of the relationship of early Lundinium to the later and better known Lundinium. The greatness of the later Lundinium indeed is reflected in the still traceable remains of Roman sentiment for a spot which contained relics of a Roman life which was sacred.

II

Later Roman London was the largest Roman city in Britain, and came to be called, A.D. 380, in the reign of the Emperor Gratian, Lundinium Augusta. Though nothing of the walls is now visible, remains are frequently excavated. At the beginning of the century huge masses with trees growing upon them were to be seen opposite what is now Finsbury Circus.

[1] Price, *Excavations*, 27..

[2] Ammianus Marcellinus, lib. xxvii. cap. viii., "vetus oppidum, quod posteritas Augustam appellavit."

Opposite Sion College, embedded in various places and warehouses, and in obscure courts and cellars from opposite the Tower to Cripplegate, many blocks of the wall masonry still remain. A very important section of the wall at Tower Hill was uncovered in 1852, and revealed the external facing of the Roman masonry in very good condition. It is now the side wall for stables and outhouses and is quite hidden from view.[1] Portions were excavated at Houndsditch in 1763. In 1857 excavations on the north-eastern side of Aldermanbury Postern laid open a portion of the wall. A section was discovered adjoining St Martin's Church, Old Bailey, and another beneath the premises of Messrs Tylor in Warwick Lane. Quite recently Mr Norman and Mr Reader have discovered portions in New Broad Street, while the vestry of All Hallow's Church was proved by the ground plan to have been built on the foundation of a Roman bastion. Portions of the wall were also discovered on the south side of Houndsditch and to the east of Jewry Street, and a considerable length came to light under sections of Friday Street and Knightrider Street. The only section that can now be seen, so far as I know, is the bastion in Cripplegate Churchyard, and this is probably a mediæval casing of the earlier Roman masonry. Enough, however, has been recovered by excavations to demonstrate that the mediæval wall was largely the Roman wall, and was wholly on its site.

The course of this wall can still be traced by the aid of modern topographical details, and it is

[1] Roach Smith, *Illustrations*, 15.

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significant that the boundaries of the modern city wards are all stopped by the Roman wall.

Commencing at its eastern end we have to eliminate the Tower of London and start from a point at the Thames shore in a straight line opposite the eastern end of Trinity Mews, above Postern Row. A very interesting legal point was based upon this very boundary by Lord Coke, who in his *Institutes* says:

"The Ancient Wall of London extendeth through the Tower; all that which is on the West part of the wall is within the City namely in the Parish of All Saints, Barking, in the ward of the Tower; and all that is on the east part of the wall is in the county of Middlesex."[1]

The liberty of the precinct of the Tower is bounded on part of its eastern side by the line of the Roman wall skirting Trinity Mews. From thence the wall follows the eastern boundary of the Tower ward and then follows the boundary of Aldgate ward, at the back of the Minories and across John Street, George Street, and Aldgate, where an interesting deflection in the boundary of the ward denotes the site of the gate. The wall next bends westward with the boundary of Aldgate ward, proceeding at the south of Houndsditch along the north side of Duke Street, and then north of Bevis Marks and Camomile Street. The wall then proceeds with the boundary of Bishopsgate ward across Bishopsgate Street, where the gate stood, then north of Wormwood Street. Thence it proceeds with the boundary of Broad Street ward along the centre of the street

[1] Coke, *Institutes*, 1797, iii. 135.

called London Wall. At this point a curious thing happens. Coleman Street ward crosses the line of the wall, and takes in the whole of a square area enclosing Finsbury Circus beyond the wall, but when the boundary of Cripplegate ward begins it again follows the line of the Roman wall. Cripplegate ward has a curious long narrow strip of territory which takes in the site of the wall and nothing further. At the point where stood Cripplegate the ward of Farringdon begins, and its boundary follows exactly the line of the wall, turning off at right angles towards the south, and showing no less than three bastions along its course from Cripplegate Church to Falcon Square. Here is Castle Street, a very significant name in this connection. Below Falcon Square, just opposite Oat Lane, the wall turns again in the direction of east to west, and follows the boundary of Aldersgate ward and of Farringdon ward within to a point in Christ's Hospital grounds (now unfortunately built over), where it again turns sharply southwards towards the river. The northern boundary of Farringdon ward appears to extend slightly beyond the line of the wall, but the ditch or moat outside the wall was, until the year 1903, commemorated in the school grounds of Christ's Hospital by a drain course known as the "town-ditch." The wall proceeds along the ward boundary at the back of the Old Bailey and crosses Ludgate at the point where the old gate stood. From this gate to the Thames the ward boundary is not followed, the wall crossing the space now occupied by the *Times* printing office and turning south at

St Andrew's Church and proceeding thence along Thames Street to the Tower.

The agreement of the existing external boundaries of the wards with the ancient boundaries of Roman London is therefore very close. There are also remarkable topographical features. Throughout the greater extent on the north and east the precise line of the wall is indicated by the streets which flank the inner side, and which have obviously been formed and regulated in reference to the wall. Thus throughout what is called London Wall, the houses of the north side stand upon the lower courses of the Roman wall, or upon the site where the masonry has been wholly removed, and a person may walk from Cripplegate to Tower Hill upon the pavement of streets, and with some few breaks keep close to the line of the ancient wall throughout the entire distance. This is easily explained by the ground immediately adjoining the inner side of the wall in the Roman times having been left open and having continued unoccupied by houses a long time subsequent. At Rutland Place the existence of a flight of twenty steps is to be explained by no other cause than that of subterranean masonry upon which the houses have been partly built, as at Colchester, where precisely the same peculiarities exist, and where they admit of being more clearly understood.[1]

Now an important fact remains to be noted, namely, that the city of London, including the liberties, or the districts into which the municipal franchises and privileges extend, is divided into two portions — London Within the Walls, and London

[1] Roach Smith, *Roman London*, 18.

Without the Walls, or the liberties. The origin of the distinction between London Within the Walls and London Without the Walls is said to be that London Without the Walls consisted of that portion of the ground outside the walls which was necessary for the protection of the city. The jurisdiction of the corporation had to extend beyond the walls of the city, or else the city would never have been safe from a hostile attack, and it is said that a consideration of the map of the city of London will show that all the liberties without the walls are places where the walls have been accessible or liable to attack; for instance, Farringdon Without extends up to Temple Bar, which was the high ground opposite to Ludgate, the gate at the top of Ludgate Hill. Cripplegate Without was the same. There were walls and a bastion and open ground in front of it. There the liberty extends as far as would have been necessary for the general purposes of defence. Aldersgate Wards Within and Without are under the same circumstances; but when one goes further round the city and comes to the river, one finds there is no liberty Without, because there was no wall — the River itself being a protection. As a further illustration, in Coleman Street ward there is no liberty, because it borders upon the moor which surrounded that part of London. Again, when the moor is passed, on the other side there is Bishopsgate Without, which was where the road passed out to the Bishop of London's lands at a distance from the town.[1] The

[1] See Evidence of Mr Serjeant Merewether, *Report of Royal Commission on City of London*, 1854, 418.

bars are the entrances to the ancient unwalled liberties and the gates are the entrances to the ancient walled city.

Noting that these facts are related in the terms applicable to mediæval London let me point out that the extramural tract is a trace of Roman London—the Pomœrium in fact, or sacred unbuilt ring of land, surrounding the city, which, as I have already pointed out, existed in connection with early Roman London, and was an important feature of Roman cities.[1]

This is material evidence enough of Roman London and there are but few other points to note. The internal arrangements of the city cannot be restored even by the aid of the shovel and pickaxe. Remains have been found which betoken a comparatively high state of wealth and prosperity, and it is thought that Leadenhall Market, standing as it does on a site formerly occupied by a basilica whose foundation walls were 12 feet thick, 130 feet long, and 40 feet apart, with a circular apse at the southern end, and which has ever since been public property,[2] might mark the site of the Roman forum, and that St Paul's might mark the site of a Roman temple. Certainly the relics found underneath Leadenhall Market, solid relics of important buildings, support the conjecture as to this place, and such archæological remains are of considerable importance to students of institutions. Some of the

[1] The principal burial-place of later Roman London was in the present Spitalfields, where Stow witnessed important excavations. (*Survey of London*, Thoms' edit. 64.) Stow says it was called of old time Lolesworth. See also *Archæologia*, xxxi. 309.

[2] *Archæologia*, xlviii. 225.

cross streets running at right angles to those running from east to west are probably on Roman foundations.[1] Formerly the north and north-eastern traffic went either by Gracechurch Street to Tottenham by the old Roman road, or, starting from east to west, it left the city by one of the western gates, Ludgate or Newgate, and thence by St John Street to the north. There was no break in the city wall between Aldersgate and Newgate, and the large block of ground without carriage-way about Austin Friars is a consequence of the Roman wall affording no passage. These are relics of the ground plan of Roman London which justify the archæologist in stating that "it is remarkable how the Roman wall (only passed by a few gates) and the street plans laid down by the Roman road surveyor turn even modern city traffic in the old directions,"[2] and perhaps these words fitly complete my account of the internal portions of the city.[3]

But what of the connection between the city and the outside territory? Always outside a Roman city there was an amphitheatre, where brutal sports and fights were exhibited, where the people in fact held their public shows. The remains of the amphitheatres at Dorchester and Silchester can be seen in remarkable preservation. The position of the London amphitheatre has never been placed, but I have an interesting suggestion to make. On the Southwark side of London, where the Roman

[1] See *Archæologia*, xxxiii. 102-103, for interesting details on this point.

[2] Mr Alfred Tylor in *Archæologia*, xlviii. 226-227.

[3] The Roman remains of London have been topographically catalogued by Mr J. E. Price in *Archæological Review*, i. 274-281, 355-361.

residential town had extended, is a place still called the Bear Garden. It is now an octagonal space built round with houses. But this octagonal space is derived from a previous octagonal building, which stood there in Tudor times, and was one of the theatres of that age. Thus this site is connected with shows for a period of time which takes us back to the Southwark of green fields. Then its name Bear Garden shows it to have been the place for the sport of bear baiting, and this carries us back centuries.[1] Beyond that there is no record until we come to a very singular and interesting class of relic, discovered on this site a few years ago, namely, some gladiator's tridents.[2] These tridents were used by one class of the Roman gladiators in the amphitheatre, where they fought for the amusement of the people. The trident was a sort of three-pointed lance with which the conqueror despatched his adversary, after having entangled him in a net which, with the trident, formed the weapons of this class of gladiator. I cannot help looking at the continuity of use expressed in these facts, and in the modern octagonal group of houses known as the Bear Garden, I think we have the last remnants of the amphitheatre of Roman London.[3]

Of more consequence to us is the constitutional

[1] Mr Fairman Ordish, in his *Early London Theatres*, cap. v., deals with the amphitheatres which were located on the Southwark side.

[2] *Brit. Arch. Assoc.* xxii. 305-312.

[3] An important parallel to this evidence is provided by Cirencester, where the remains and site of the Roman amphitheatre were well known, were used in later times and were then known as "the bull ring." (*History of Cirencester*, 1800, 69.) The comparison of the facts of Cirencester with the theory as to London is an important aid.

connection between the city and the surrounding country. The territorium of the city was its special property, and it extended as far as the limits of the territorium of the nearest Roman city, or as near thereto as the natural boundaries of forest swamps or other features allowed. It is impossible, of course, to trace in detail the boundaries of the territorium now, but there may be points on the line which for one reason or another have become distinguished, and it will be sufficient if we can trace out any such points. Beginning with the south, there is the important district of Southwark, which was probably only a residential extension of the city by means of its bridge. If the territorium of London extended as far south as to meet the territorium of the nearest Roman town, namely, Durobrivis (Rochester), the actual point of contact may be discovered by a fact brought out by the Saxon conquest. The Jutes landed in A.D. 449 or 450, at the instance of the British King, Vortigern. Every one knows the story. They first helped the British against the Picts and then turned against them. Attacking Durovernum (our Canterbury), they left it a blackened and solitary ruin, and marched onwards along the road which led to London. At our Aylesford was fought a great battle, in which the invaders lost one of their chiefs, Horsa. Then Hengist assumed a sterner and more organised position. He claimed the kingdom, and marching with his son, Ella, further into Kent, he met the British force at the passage of the Cray, a comparatively small stream, even at that date. Their victory was complete, for the Britons,

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Showing the indications and extent of the ancient *territorium* according to the modern map of London.

as the *Saxon Chronicle* tells us, "forsook Kent-land and fled with much fear to London."

I pause at this point. The British who fought at the ford of the Cray fled to London; and the question is, what was London to them? If we note that the river Cray was the southern boundary of the Londoners' right of chase in the Middle Ages, and if we bear in mind that the charter of Henry I. alludes to these rights as based upon ancient custom, it seems reasonable to suggest that the Cray represented the boundary point of the territorium of Roman London. The men who fought at this boundary, and who on defeat fled to London, were then defending the territorium of London at its furthest point, and were therefore the armed force of the Roman city. Without in any way exaggerating the facts as they appear in the ancient records, this appears to me the first great battle fought by British London for her own political position as a Roman city.[1] It is significant that the name of the British leader at this important battle is not mentioned, although it was the time when both Vortimer and Aurelius Ambrosius were opposing the Saxons, and I think the circumstances point to the fact that it was not the tribal army of the British who fought at Crayford, but the army of London, or at all events that the army of London took the lead and was the centre of the fight. The remains at Crayford of the Roman period are very plentiful, and there is a remarkable mound which may mark the boundary

[1] Mr Green supports the view that the Cray may have been the southern boundary of the Roman territorium of London (*Making of England*, 37), but he does not see the significance of this in connection with the great battle there with Hengist.

point.[1] But, be this as it may, we have here fairly reasonable evidence that Crayford was the southern limit of the territorium of London.

This conclusion as to the southern boundary enables us to go a step further in the question of the territorium boundaries, and we turn to the eastern side. There is evidence of a decided character that the boundary between modern Middlesex and modern Essex was also a Roman boundary, for Old Ford was an outpost which marked a point of importance, and nothing so important could have arisen as the structure which divided the territorium of Lundinium from its neighbour. Of Roman remains at Old Ford there is ample evidence—burials, coins, and urns being the chief objects,[2] and it is just possible that the attempt in mediæval days to make Old Ford a sort of trading boundary for London may rest upon some reminiscence of more ancient conditions.[3]

[1] "Overlooking the source of the river Cray on the western side towers a remarkable circular-topped mount, formerly covered with trees. Passing by it we were informed by a native of the locality that it was termed 'The Fairy Mount,' and that he remembered an old man who averred that in his younger days, before Mr Joynson's tall chimneys enlightened the neighbourhood, he had seen fairies come out of the side of the hill and dance upon the summit. Our informant further added that the geological formation was very peculiar, gravel rock on the top, sand beneath. The name of the field in which this eminence is situated bears the evidently Celtic appellation of Bud Perry. A short distance from the Fairy Mount is High Field, the site of a Roman burial-place." (Dunkin, *Archæological Mine*, ii. 55-56.) I do not know whether any philological significance attaches to the name "Bud Perry." If it is in any way connected with Kaer Buddai or Fuddai, one of the Nennius list of cities, it would be interesting.

[2] *Archæologia*, xxxi. 310; *Numismatic Chronicle*, N.S. vi. 304-306.

[3] An order of 45 Edward III., 1371, constitutes "Stretteford on the one side and Knyghtebrugge on the other side," as places for the slaughter of cattle. (Riley, *Memorials of London*, 257.) The connection

We will next to the west. Knightsbridge was an important point, for we read that "upon the King (1257) approaching Westminster the Mayor and citizens went forth to salute him, as the usage is, as far as Kniwtebrigge."[1] Beyond Knightsbridge, however, is Staines, which marks the boundary of the city's ancient rights in Middlesex and on the Thames.[2] Now Staines had a special connection with London, for a charter of King Eadward grants to Westminster Abbey the "cotlif" of Staines with the land called "Stáeningehaga" within London.[3] Professor Maitland makes the acute suggestion that in the names Staining Lane and the parish of St Mary Staining we have the means of identifying the locality of Stainighaw.[4] Of course Mr Maitland adds this to his other evidence of manorial holdings in the country being connected with the burgh for purposes of keeping up the defences of the burghal stronghold, and though I do not follow him entirely in his arguments for the adaptation of the burghal system to all places, London included, I think the special connection of London with Staines is revealed by this grant. I would hazard the suggestion that this special connection is repeated in two other significant cases, in the case of Bow, for which we have the parish of St Mary-le-Bow in the city,

with Knightsbridge renders this entry of special importance. Riley notes other important transactions at Stratford-le-Bow, which help towards the idea of a special relationship to the city.

[1] *Chronicles of London*, 34. [2] See *Eng. Hist. Rev.* xvii. 485.

[3] Kemble, *Cod. Dip.* iv. 211.

[4] *Domesday and Beyond*, 181; Cf. Coote, *Romans of Britain*, 378. There is also the parish of All Hallows Staining.

and in the case of Crayford, for which we have the parish of St Katharine Cree in the city. The connection thus discovered for three out-stations of the territorium boundary must point very strongly to something older than the burghal stronghold. It is only necessary to add that Staines was the Roman Pontes on the road between London and Silchester, and we have all the information available for the western parallel to that which we have found on the east and south.

Let us finally turn to the northern side of the territorium. The nearest Roman city to London on the north is Verulam, and it happens that there is an important topographical feature, the history of which illustrates the point we are discussing. This feature is the so-called barrow on Hampstead Heath. It has been the subject of several traditions and much speculation.[1] But one point stands out most clearly, namely, that this barrow was connected with both London and St Albans. This is contained in a legend recorded by Howitt as follows:

"In very early times the inhabitants of St Albans, who aspired to make the town the capital of this part of England, finding London growing a vigorous rival, set out to attack and destroy it; but the Londoners turning out met and defeated their enemies of St Albans on this spot, and this mound contains the dust of the slain."[2]

Now I agree with Professor Hales in his attempt to elucidate this tradition, that

[1] I fear I have contributed to this speculation in company with Professor Hales, Mr Elliot Stock, and others. See *Athenæum*, 17th November and 1st December 1883.

[2] Howitt, *Northern Heights of London*, 329-330.

"traditions are always from one point or another worth regarding. If they do nothing else they may illustrate some side of the popular mind, some tendency of it, or superstition or odd way of understanding things. But undoubtedly they are sometimes based on historical fact."

But I part company with him when he proceeds to elucidate the battle theory. In the first place, the barrow itself disproves it, for its excavation in 1894, by the London County Council, revealed no evidence whatever of any burial or cremation use. It did, however, reveal something far more important. Thus the excavations showed—(1) black masses as the centre was approached indicating the presence of charcoal at varying depths from 3 to 5 feet from the upper surface; (2) as nearly as possible in the true centre of the mound an irregular hole or pocket, the top of which was 6 feet 6 inches from the upper surface, and extending downwards for about 18 inches; (3) charcoal apparently vegetable from the tiny fragments of carbonised wood remaining in it in the hole or pocket.[1] There was absolutely no trace of any burial or any of the associations of a burial. Now noting one further point of Mr Read's excellently full report, that the hole or pocket was made on the ground level and that consequently the barrow was heaped up over it, I will turn to a description of the Roman botontinus, a mound erected by the agrimensorial surveyors to fix the bounds of the territorium. Mr Coote supplies me with the exact words:

"On the ground which should form the base upon which

[1] Minutes of London County Council, 27th November 1894, and Report of Mr C. H. Read to the Council.

these mounds and hillocks would be subsequently heaped the agrimensores deposited charcoal, broken pottery, gravel, pebbles brought from a distance, lime, ashes, pitched oaken stakes—all things which upon a subsequent excavation of the mound would demonstrate that the hand of man had placed them there to serve with their surroundings as a token of something more abstruse." [1]

No closer parallel could be obtained, and the conclusion is inevitable that the Hampstead barrow is a Roman botontinus. If the evidence is correctly translated up to this point I am entitled to turn back to the Howitt tradition to supply the names of the places of which it was the boundary mark, and that these should be London and St Albans seems to me to be conclusive. The purpose of the tradition is thus fulfilled. Barrows and battles, in the popular mind, are naturally connected, and from this connection the late form of the tradition would be framed, thereby ousting the older form which would have related to the boundary. What has not been destroyed is the relationship of the barrow to the two cities of Verulamium and Lundinium, the only effective relationship being that of a boundary mark between the territorium of the two cities,[2] and that this boundary mark was not placed much further north is accounted for by the

[1] *Romans of Britain*, 70-73, and the notes to the necessary authorities. At pp. 100-111 Mr Coote gives examples in England. Professor Hales accepted this view in an article on the barrow in *Middlesex and Hertfordshire Notes and Queries*, i. 6-11 (1905), but I had previously advanced this view in the *Times* of 13th November 1894.

[2] It is noticeable that a hitherto unprinted charter of Æthelred to Westminster, anno 986, contains the boundaries of land at Hampstead, and one point in the boundary is "the barrow." (*Lond. and Middlesex Arch. Soc.* vi. 560.)

existence of the great forest which in Roman days was impenetrable.

There are thus revealed important points in the boundary of the territorium of London, points connected with the territoria of the nearest cities, north, east, south, and west — Verulam, Camulodunum, Durobrivæ, and Calleva; and it would be well to see if, in addition to the boundaries, there is evidence to illustrate the filling in of the internal parts of the territorium with remains of its Roman administration or history.

Difficult as it must be to discover such evidence, I think it can be shown to exist, and I will turn first to the rights of the city to certain collective powers over extra-mural territory of wide extent, an extent so wide as to reveal its non-English origin. In A.D. 912, after the Danish invasion and the disastrous events which followed, we still read in the *Chronicle* of King Eadward taking possession of London, "and of all the lands which belonged thereto"[1] — which surely gives us a glimpse of London in its Roman garb with dominion over the territorium around it.[2] In the significant entry in the *Anglo-Saxon Chronicle* of the year 1097, we can, I think, recognise another phase of the same rights.

[1] *Anglo-Saxon Chronicle*, anno 912. "Eadweard cyning feng to Lunden byrig] to oxnaforda] to eallum þam landum þe þær to hyrdon."

[2] I do not think this meant the mere headship of London over kingdoms or shires in which it was situated, though I admit that the inclusion of Oxford is difficult to understand. But in any case the inclusion of Oxford does not assist the idea of headship, as distinct from dominion, for both cities seem to have been included in the same southern district. See Chadwick, *Studies on the Anglo-Saxon Constitution*, 207.

"Many shires also which belonged to London for work were sorely harassed by the wall that they wrought around the Tower, and by the bridge which had been nearly washed away, and by the work of the king's hall that was wrought at Westminster":[1]

"Shires which belonged to London for work" is a significant entry. We need not interpret shire to mean the constitutional shire, the county, but rather the regional shire or district which occurs so frequently in history.

These fragments from the tenth and eleventh centuries may be added together as evidence that the dominion of London over the lands around it belongs to a system of city government which is Roman. This dominion was, however, not entirely lost, though its Roman character vanished. In later historical days there are fragments of the old dominion still remaining. Perhaps the twelfth century limits for foreign trade direct us to the regional district of the city, for they relate to points already noted in a similar connection, namely, Startfford (no doubt Stratford-le-Bow), Sandford, Knightsbridge (over the Bayswater rivulet, sometimes called the West Bourne), and the Balk Tree, some boundary mark presumably on the eastern side of the city.[2] Something even more telling than this is to be derived from the simple name of Mile End, now applied to one of the East London parishes, for, if I mistake not, it contains one of the surest signs of Roman

[1] It is important to adopt Mr Maitland's translation, for Thorpe substituted *scipan*, ships, for *sciran*. See Maitland, *Domesday and Beyond*, 192; Thorpe, *Anglo-Saxon Chronicle*, ii. 202.

[2] Miss Bateson in *Eng. Hist. Rev.* xvii. 497.

dominion over the extramural territory of London having lasted beyond Roman times, and having been translated by post-Roman language and history. At Rome, and because at Rome, therefore at every other colony or municipality in the Roman empire founded upon the model of the mother city, the military jurisdiction of the consul could not be asserted without appeal; beyond Rome it could be so asserted, and the limit between the two spheres, the *imperium domi* and the *imperium militiæ*, was originally not the city walls but the Pomœrium beyond the walls, and then later still the first milestone beyond the city — *neque provocationem esse longius ab urbe mille passuum.*[1] This consular jurisdiction included the pronouncement of the death sentence, and it is therefore perfectly reasonable to suppose that the "mile-end" from the city assumed an important place in local history.

Now let me turn to the Mile End of London. Mile End Bar was exactly one mile from Aldgate, the eastern gate of the city commanding the Roman road to Colchester and the eastern parts of Britain. It was the place where the citizens assembled in arms,[2] and it was a place of execution.[3] Here, then, are all the essential features of the Roman mile-end jurisdiction of the consuls reproduced in the London

[1] Livy, iii. 20. See Greenidge (*Roman Public Life*, 79) for a full description of this interesting point in Roman city life.

[2] *Liber de Antiq. Leg.* 7. A vivid description of this in 1381 is printed in Riley's *Memorials of London*, 449.

[3] Nicolas, *Chronicle of London* (fifteenth century), 73. A field at Mile End, known as "Hangman's Acre," is marked on Gascoyne's map of London, 1647.

mile-end, and the twofold association of military and criminal matters cannot be an accidental parallel.

These are interesting fragments enough; and in the celebrated charter granted by Henry I. we have the case, as it were, summed up. This charter confirms to the city of London the county of Middlesex in fee farm.[1] Such a grant as this points to much more than a king's favour, even if we take into account Henry's peculiar position, and the actual evidence of ancient rights claimed by the citizens is contained in the clause, "and the citizens of London may have their chaces to hunt *as well and fully as their ancestors have had.*"[2] This appeal to ancestral usage, of course, takes us behind the Norman conquest, and behind the Anglo-Saxon rule also, for there is nothing in Anglo-Saxon institutions to which it can be referred.

Perhaps finally we may ascertain the means by which dominion over the territorium passed away from the city. This may be found, I think, in the possessions of the church of London. We have already noted that church organisation entered into the settlement of Britain after the withdrawal of Roman imperial government, and later on, I shall produce examples of wholesale grants to the church of the territorial lands of Roman cities.[3] Applying

[1] On this important subject Mr Round's note on "The Early Administration of London," in his *Geoffrey of Mandeville*, 347-373 should be studied. As Mr Round puts it, "Middlesex was never separate from London."

[2] The citizens fought for this right strenuously. See the case quoted in Riley's *Memorials of London*, 28.

[3] See *post*, 213, 214, 223.

this evidence to the great estates of St Paul's massed round London, and the titles to which are lost in antiquity,[1] the conclusion is irresistible that these estates are portions of the civic territorium of Roman London which passed to the church as part of the new governing organisation in process of formation when the Roman organisation of the city was breaking up before the English invaders.

The appeal to Roman origins in all these matters amounts in the aggregate to something substantial. There are remains of the internal Roman organisation in the interior area of almost sacred significance, with relics of its western entrance at London Stone and its western pomœrium; in the walls which enclosed Lundinium Augusta; in the streets crossing in regular lines from north to south and east to west; in the forum at Leadenhall and the temple at St Paul's; and in the gates. There are remains of the external organisation in the amphitheatre, the pomœrium, the imperium militiæ, and the territorium. All this is so much more significant when considered collectively. Taken separately, each item might appear comparatively trifling and might be questioned. Taken collectively, the items assume a new importance, and each one is supported by the others. They stand for further enquiry as to their history during the period when Roman imperial organisation had ceased in Britain.

[1] Hale, *Domesday of St Paul's*, iii.

LIBRARY OF THE BOMBAY

CHAPTER III

Now, undoubtedly, in these facts we have a Roman London which appears to have lasted beyond Roman times and Government. It had to meet the tide of Anglo-Saxon conflict and settlement, and we know quite well that the fight at Crayford, disastrous as it was to the Londoners, did not end the struggle. I do not think authorities have quite understood the position. They see things from the purely English view, they assume the conquest of London because they perceive that London took its share in English history, and they do not stay to ask what that share was, and whence it was derived. The answer to these questions can only be obtained by a complete reconsideration of the facts.

It is impossible to imagine that London could have kept on being Roman in constitution, in population, in government, in all essentials of citizen life, while everything outside was being made English. As a matter of fact, we know it was not so. It took its part in English politics, and a great part too; it took its share in English war, and a great part too; everywhere in Anglo-Saxon times the city of London looms out big and powerful, too big and too powerful to have been the outcome of Saxon influences, an institution of Saxon origin; but it was there, and the question is, how may the facts be accounted for?

They are not accounted for by any of the most prominent of later English historians. They read into the silence of history as to the fate of Roman London at the hands of Saxon conquerors, and as to its position under Saxon rule, not only its conquest but its utter desolation for a time as the result of that conquest.[1] I read that silence otherwise. There is admittedly no direct evidence of conquest, no evidence of utter desolation, and there appears to be the exact contrary to conquest and desolation in all the indirect evidence. Mr Green has been the most elaborate in his summing up of the position, as he understands it, of London under Saxon rule.[2] He confesses that it is hard to imagine "how all traces of the municipal institutions to which the Roman towns clung so obstinately should have so utterly disappeared," and I shall now proceed with the evidence which shows that this alleged disappearance is not borne out by the facts.

There are very few facts to help us to any conclusion, and Mr Green begins with the earliest. In 616 Beda records that the Londoners would not receive Bishop Mellitus,

"choosing rather to be under their idolatrous high priests, for King Eadbald had not so much authority as his father, nor was he able to restore the bishop against the will and consent of the pagans" (ii. 6).

[1] The words of Gildas are significant enough, and tell no doubt of the general rule—"miserabili visu in medio platearum ima turrium edito cardine evulsarum murorumque celsorum saxa, sacra altaria, cadaverum frustra, crustis ac si gelantibus purperei cruoris tecta, velut in quodam horrendo torculari mixta viderentur," p. 56 of the Cymmrodorion edition.

[2] Green, *Conquest of England*, 452-466.

Mr Green argues that this implies the reign of Anglo-Saxon paganism in place of an uprooted Romano-British Christianity. The argument is a good one, and if it fitted in with the facts from other sources it would be difficult to resist its force. But as it does not fit in with other facts we may seek for an explanation which may, perhaps, be more in accordance with them. Of course, the obvious question to raise is, was the Christianity of London of so firm and orthodox a character that fifty years after the domination of the Anglo-Saxon conquerors of Britain the only form of paganism which could have been set up against Christianity was Teutonic paganism? The Celtic Church in Britain was not under the domination of the Latin pope as were Christian churches in other parts of Europe, and probably Dubhthach was right when he said that the adoption of Christian customs by a Celtic tribe was "the strengthening of paganism."[1] Mr Willis-Bund has produced enough evidence to show how thoroughly pagan in form was early Celtic Christianity, and if this evidence is to be restricted more to the tribes than to the Romano-British cities, more to the Celts than to the successors of the Romans, we may still fall back upon the despairing cry of Gildas, who tells so plainly the story of pagan revival after the departure of the Romans. In any case there is enough evidence on the other side to suggest that the Londoners' paganism may as well have been a paganism of their own as a paganism

[1] Willis-Bund, *Celtic Church of Wales*, 22.

due to Teutonic influences,[1] and if we cannot see Teutonic influences elsewhere we are not bound to see them here.

There is also direct evidence against the theory of a Teutonic religion having been established in London. The Romans paid great respect to the local divinities of their conquered territory, and there are many evidences of this, including some British examples.[2] It accounts, I venture to think, for the continuance and the development of the worship of Lud, the god of the waters. The chief characteristics of this worship have been explained by Professor Rhys,[3] but he has neglected to explain its abnormal development. The worship he describes as parallel on the Thames and Severn could not have been wholly a Celtic worship. The tribes who dwelt and worshipped on the Thames were the Trinovantes and those who dwelt and worshipped on the Severn were the Silures. There was no territorial or political connection between them, and the national aspect of this worship could not have originated among the independent tribes of Celtic Britain. If we grant, however, that Rome took over the local gods of the two great rivers—the Thames and the Severn — we not only account for the apparent nationalisation of the water cult, but we account

[1] Mr Willis-Bund's book is most useful in this respect, and the student should be acquainted with its important bearing on this question. Mr Williams, in his edition of Gildas for the Cymmrodorion Society, has a useful note summarising the evidence for the point of view I have advanced. See p. 22, note 2.

[2] Squire, *Mythology of the British Islands*, 275, 399.

[3] *Celtic Heathendom*, 125-133.

for its continuance in such a Roman centre as London, and the preservation of the god-name in our modern Ludgate. But this is not all. St Paul's has always been connected with recollections of the worship of Diana at a temple formerly standing on its site. A statue to Diana was found between the Deanery and Blackfriars, and in 1830, in excavating for the foundations of Goldsmith's Hall in Foster Lane, was found a stone altar to Diana.[1] These finds dispose of Wren's objections to the credibility of the report, dating from Edward III., that an "incredible quantity" of skulls of animals, including stag horns, had been found on the site of the cathedral itself, and I cannot but connect these remains with a remarkable church custom which lasted down to comparatively recent times. Camden thus describes it:

"Some have imagined that a temple of Diana formerly stood here [St Paul's], and when I was a boy I have seen a stag's head fixed upon a spear (agreeably enough to the sacrifice of Diana) and conveyed about within the church with great solemnity and sounds of horns. And I have heard that the stag which the family of Bawd, in Essex, were bound to pay for certain lands, used to be received at the steps of the church by the priests in their sacerdotal robes and with garlands of flowers on their heads. Certain it is this ceremony savours more of the worship of Diana and of Gentile errours than of the Christian religion."[2]

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[1] Milman, *History of St Paul's*, 5, 7; Malcolm, *Londinium Redivivum*, iii. 509; Archer, *Vestiges of Old London*, contains a description of the altar, with an illustration.

[2] Camden, *Britannia*, by Gough, ii. 81; cf. Stow's account of a similar ceremony in his *Survey* (Thoms' edit.) 125; also Milman, *History of St Paul's*, 3-8. As to the sacrifice of stags to Diana, see Mr A. B.

Camden's dictum is undoubtedly correct, and in this remarkable survival we have, I think, the required evidence as to Roman worship in London. In any case it disposes of Mr Green's assumption of a Teutonic paganism as the enemy of the Christianity of Bishop Mellitus, for the surviving Romano-Celtic beliefs are there to stand out for a London paganism of the Roman type, and there is nothing of a distinctly Teutonic type to set against them. We cannot dispose of survivals and archæological finds of this description at the mere bidding of a modern authority. From this point Mr Green's argument is ingenious rather than convincing. The building of St Paul's, the erection of other early Christian churches, are taken to indicate that the land was open land, uninhabited and unused, but these churches may have been adapted from the yet undestroyed Roman buildings, or may have been erected on their sites. After this stage Mr Green passes on to later Saxon history, and here he is on surer and more reliable ground, though it does not belong to events with which I am at present concerned.

I think, too, Mr Loftie, in stating what he calls the negative evidence, has wholly missed the importance of London. He assumes too much in stating that

Cook on the cult of the stag in *Jour. Hell. Studies*, xiv. 134. It is noteworthy that the Gauls are specially mentioned as sacrificing to Artemis or Diana (Grimm, *Teutonic Mythology*, iv. 1592), and perhaps it is worth mentioning that one feature of the cult of Artemis connects her with a water ceremony. (*Ibid.* 1365.) For other examples of stag ceremonies connected with church worship, see Dr Karl Pearson, *Chances of Death*, ii. 19, 64.

London was a source of weakness to the Essex kings. There is the first question to ask, was it in the hands of the Essex kings? I think not. I think the Essex kings used it whenever it was necessary, and left it whenever they could do so safely[1] just as the Kentish kings did, and as the Mercian kings did.[2] To a great extent, this was the policy of the Anglo-Saxon kings throughout and few things are more remarkable than this almost uniform method of neglecting London, treating it as a factor not of importance, giving it no place in the Anglo-Saxon system, treating it as belonging to Essex, to Kent, or to Mercia, according to the prevailing influence of the time.

A position more definite was only accorded to it in the ninth century by the greatest of all the Saxon kings, Ælfred, who for the first time used it as the basis of military operation. He repaired the walls and took ample measures for its defence.[3] After his glorious reign the country was subjected to war and rapine at the hands of the Danes, and

[1] Beda's allusion to it as the metropolis of the East Saxons—*quorum metropolis Londonia civitas est* (ii. 3)—surely refers to its ecclesiastical not its political status, and Mr Plummer's note on the title of Cedd bishop of the East Saxons (ii. 178) confirms this view. Beda's description of Earconwald, as having been appointed bishop of the East Saxons in London (iv. 6), "*orientalibus Saxonibus . . . Earconwaldum constituit episcopum in civitate Londonia*," is also to the point.

[2] Mr Kemble (*Saxons in England*, ii. 333) is inclined to concede this point, and see Freeman, *English Towns and Districts*, 398.

[3] William of Malmesbury makes this new departure in Anglo-Saxon policy quite clear, for he alludes to Eadward improving upon the policy of his father, Ælfred, by "devising a mode of frustrating the incursions of the Danes, for he repaired many ancient cities (*urbibus*) or built new ones in places calculated for his purpose" (lib. ii. anno 901).

the story of Æthelred the Unready and his repeated flight to London is well known. But the point of all this is that London held her own. She was not conquered as the rest of the kingdom was conquered. The *Saxon Chronicle* at this point speaks as if the writer was contemporary with the events:

"And oft they fought against the city of London, but praise be to God that it yet stands sound, and they there ever met with ill fare" (A.D. 1009).

And, at last, only when Æthelred deserted her, did she open her gates to the conqueror.[1]

She did great things again so soon as she had a great English king to support. That great king was Eadmund Ironside. London's share in Eadmund's

[1] William of Malmesbury's account of London's fight for Æthelred is particularly valuable. On the submission of the Northumbrias, "all the other people who inhabited England on the north gave Sweyn tribute and hostages. Coming southward, he compelled Oxford and Winchester to obey his commands (*leges suas*); the Londoners alone, protecting their lawful sovereign within their walls, shut their gates against him. The Danes, on the other hand, assailing with greater ferocity, nurtured their fortitude with the hope of fame; the townsmen (*oppidani*) were ready to rush on death for freedom, thinking they ought never to be forgiven should they desert their king, who had committed his life to their charge. While the conflict was raging fiercely on either side, victory befriended the juster cause; for the citizens (*civibus*) made wonderful exertions, every one esteeming it glorious to show his unwearied alacrity to his prince, or even to die for him. Part of the enemy were destroyed, and part drowned in the River Thames, because in their headlong fury they had not sought a bridge. With his shattered army Sweyn retreated to Bath, where Ethelmer, governor (*comes*) of the western district, with his followers (*cum suis omnibus*), submitted to him. And, although all England was already bending to his dominion, yet not even now would the Londoners have yielded, had not Æthelred withdrawn his presence from among them (*nec adhuc flecterentur Londonienses, tota jam Anglia in clientelam illius inclinata*). However, they applied the best remedy they could to their exigencies,

glories is a great one. After Æthelred's death, as Mr Freeman puts it,

"beyond its walls, all was either actually in the hands of the invader or exposed to his power. The witan of England, Bishops, Abbots, Ealdormen, Thegns, all who were without the walls of London met in full gemot and chose Cnut to the vacant throne. . . . But this election did not represent the voice of all England; . . . Cnut was chosen at Southampton but the citizens of London, with such of the other witan as were within the city, held a counter-gemot, and with one voice elected the Ætheling Eadmund. His coronation at the hands of Archbishop Lyfing followed; the rite was done within the walls of the city, no doubt in the minster of St Paul's, where the late king had just been buried."[1]

And thus the city of London put forth her might and stood for England against the Dane. The first act of Eadmund was to go forth from London to try to win back the realm of his forefathers, the Kingdom of the West Saxons, and the doings of this period are worthy of anything to be read of in English annals.

I only draw attention to these events to show how London had assumed an English attitude. She had defended the Briton against the Saxon; she now defended the Saxon against the Dane; she was, hereafter, to defend Saxon and Dane against the

and surrendered after the example of their countrymen (*compatriotarum exemplo se dedidere*). They were men laudable in the extreme, and such as Mars himself would not have disdained to encounter, had they possessed a competent leader. Even while they were supported by the mere shadow of one, they risked every chance of battle, nay, even a siege of several months' continuance" (lib. ii. anno 1013).

[1] Freeman, *Hist. Norman Conquest*, i. 381.

Norman. It is impossible to consider such a history without seeing that her power had the character of independence.

What then was London in the Anglo-Saxon system? I believe it will be found that the Saxon organisation flowed over, as it were, into London. I use the term flowed over, because the Saxon influence in London came from the outside, in the sort of fashion which one might imagine a great wave, which had been kept back by walls, would eventually penetrate beyond the walls, by narrow cracks and deficiencies, by sheer force of its immense weight and column, not by a sudden destruction and overwhelming.

I

If these general conclusions are correct they suggest that the evidence of the Saxon settlement will be found around London, but not in London,[1] and also that there was an organisation in London itself, which kept the Saxon settlement outside. If later political events taught the Anglo-Saxon monarchs the value of London in alliance with them, there will

[1] Mr Reginald Smith, in the Victoria County History of *Essex* (i. 316), draws attention to the fact that the coinage of London under the Anglo-Saxons points to London having "some degree of autonomy while the various Saxon kingdoms were growing up in other parts of the country." It is also important to point out that "ethnological observations seem to show that the Saxons settled in considerable numbers in the neighbourhood of London, at least in Middlesex, but it is open to question whether they ever destroyed the city." (Mr R. Smith, in Victoria County History of *Essex*, i. 318.) Cf. Beddoe, *Races of Britain*, 254, and Ripley, *Races of Europe*, 323.

be some reflex of this remarkable position in the conditions of London itself. It is a dual position. There should be evidence of the ancient Roman constitution and law, and evidence, too, of the later Anglo-Saxon influences upon that constitution and law.

As a matter of fact, there is such evidence. It is contained in the history of the internal affairs of London as they emerge under English rule, and I shall proceed to examine these. I have alluded to the importance of a system of merchant law. Mr Spence is of opinion that this law, which was Roman in origin, "had in all probability silently prevailed in London in some shape throughout the whole of the Anglo-Saxon times,"[1] and although he does not give any proof of this opinion proof exists. Mr Maitland has stated that in the courts of the merchants alone did they have advocates or professional lawyers[2] in Saxon times, and it is precisely in London, where merchant law must have prevailed, that a curious college of lawyers existed whose origin is lost in antiquity and whose customs take us back to Roman practices.

The order of the Coif is the oldest established association of lawyers in our country; there is no law for its first institution, no charter from a sovereign, nothing to show from whence it sprung except its remarkable parallel to Roman customs. The assembling of the Roman Jurisperiti at early morn, *sub galli cantum*, and their peripatetic exercise up and down the forum, in actual consultation, or

[1] *Equitable Jurisdiction of the Court of Chancery*, i. 247.
[2] *Select Pleas of Manorial Courts*, 136.

ready to confer with the *consultores* or clients, is described by Horace (*Sat.* I. i. 9):

> "Agricolam laudat juris legumque peritus
> Sub galli cantum consultor ubi ostia pulsat;"

and again in the first epistle of his second book he explains more at large the custom which is again mentioned by Cicero in his oration for Murena. But this practice applied to those lawyers whose years and honours had grown with their knowledge of the laws. In their younger days, on the public days of market or assembly, the masters of the art, says Gibbon, were seen walking in the forum ready to impart the needful advice to the meanest of their fellow citizens, from whose votes on a future occasion they might solicit a grateful return. Let us take a step further in the history of Roman lawyers. When they awaited their clients at home, the youths of their own order and family were permitted to listen; and Gibbon goes on to point out the evident corollary from this, that some families, as, for instance, the Mucian, were long renowned for their hereditary knowledge of the civil law.[1] Now all these facts are in exact parallel to the early customs of the order of the Coif. Serjeant Pulling points out the significance of the order as a family of lawyers, so to speak, who appear at the earliest dawn of English history, but originating from no special enactment from the government of the day, called into being by no charter or sanction of the sovereign. But the close parallel between the order

[1] Gibbon, *Decline and Fall* (Bury), iv. 455; Niebuhr, *Lectures on History of Rome*, ii. 18.

of the Coif as a family or corporation of lawyers and the Roman lawyers who developed into hereditary custodians of legal knowledge, becomes even more remarkable when we consider their practices and the theory of their duties. They assembled in the parvis of old St Paul's Cathedral, each serjeant having been allotted a special pillar in the cathedral at his appointment, where they met their clients in legal consultation, hearing the facts of the case, and taking notes of the evidence, or pacing up and down.[1] Parvis, in the case of St Paul's, comprehended the nave or the middle aisle of the old cathedral, or Paul's Walk. Chaucer alludes to the custom;

> "A serjeant of the law, ware and wise,
> That often had been at the parvis."

Fortescue alludes to it—"the suitors of the court betake themselves to the parvis to advise with the serjeants at law, and other their counsel, about their affairs."[2] Dugdale describes the whole ceremony[3] and examples of it exist in our ancient legal records.

[1] Pulling, *Order of the Coif*, 2, 3.

[2] Fortescue, *De laud. leg. Angl.* cap. li. See also Hearne, *Coll. of Curious Discourses*, i. 66, and *Machyn's Diary* (Camden Society), 27.

[3] "And when the seid newe Serjaunts have denyed, then they goo in a sober maner with ther seid offycers and servaunts into London, oone the Est side of Chepesyde, one to Seynt Thomas of Acres, and ther they offer, and then come down on the west side of Chepesyde to Powle's, and ther offer at the Rode of the North door, at St Erkenwald's shrine, and then goo down into the body of the Chirche, and ther they be appoyntid to ther pyllyrs by the Styward and Countroller of the feste which brought them thidder with the oder officers. And after that doone, they goo home ageyne to the place of the fest," etc. (Dugdale, *Origines Juridiciales*, c. 44, p. 117.)

Thus in an action for debt brought against a clergyman in the reign of Edward III., it was alleged that he had bound himself to pay to the plaintiff £1000 in St Paul's Church, London.[1] Dugdale shows that the ceremony originated in the city itself:

"There is a tradition that in times past there was one Inne of Court at Dowgate, another in Fewter Lane, and another in Pater Noster Row, which last they would prove because it was next to St Paul's church, where each lawyer and serjeant at his pillar heard his client's cause and took notes thereof upon his knee as they do in Guildhall at this day."[2]

This ceremony, thus identified with the citizens' Guildhall, leaves no room for doubt that it was the old Roman practice, and a practice which was clearly related in the nature of parent to child, not that of descendant from a common ancestor.

Merchant law, thus shown to be active in its retention of Roman practices within the city is, by another remarkable piece of evidence, also shown to be active in its conflict with tribal law outside the city, that is, with the tribal law of the English. This comes to us by a re-examination of the well-known *judicia civitatis Lundoniæ* of King Æthelstan's reign, the terms of which document have never been discovered to contain evidence of the existence in London of a merchant law which was opposed to Anglo-Saxon law, and opposed to it in the direction of being more advanced, opposed to it because it was a state law and not a kinship law.

[1] *Year Book*, 15th Edw. III. pp. xiii. 317.
[2] Dugdale, *op. cit.* 142.

The document is as follows:

This is the ordinance which the bishops and the reeves belonging to London have ordained and with 'weds' confirmed among our frith 'gegildas,' as well 'eorlish' as 'ceorlish' in addition to the dooms which were fixed at 'Greatanlea' and at Exeter, and at 'Thunresfeld.'

First

1. That no thief be spared over xii pence and no person over xii years whom we learn according to folk-right that he is guilty and can make no denial; that we slay him and take all that he has; and first take the 'ceap gild' from the property; and after that let the surplus be divided into two; one part to the wife, if she be innocent, and were not privy to the crime; and the other into two: let the king take half, half the fellowship. If it be boc-land or bishops land then has the landlord the half part in common with the fellowship.

2. And he who secretly harbours a thief and is privy to the crime and to the guilt to him let the like be done.

3. And he who stands with a thief and fights with him let him be slain with the thief.

4. And he who oft before has been convicted openly of theft and shall go to the ordeal and is there found guilty; that he be slain unless the kindred or the lord be willing to release him by his 'wer' and by the full 'ceap gild' and also have him in 'borh' that he thenceforth desist from every kind of evil. If after that he again steal then let his kinsmen give him up to the reeve to whom it may appertain in such custody as they before took him out of from the ordeal and let him be slain in retribution of the theft. But if any one defend him and will take him although he was convicted at the ordeal so that he might not be slain: that he should be liable in his life, unless he should flee to the king and he should give him his life; all as it was before ordained at 'Greatanlea,' and at Exeter, and at 'Thunresfeld.'

5. And whoever will avenge a thief, and commits an assault or makes an attack on the highway: let him be liable in cxx shillings to the king. But if he slay any one in his revenge let him be liable in his life and in all that he has unless the king is willing to be merciful to him.

Second

That we have ordained: that each of us should contribute iv pence for our common use within xii months and pay for the property which should be taken after we had contributed the money; and that we all should have the search in common; and that every man should contribute his shilling who had property to the value of xxx pence except the poor widow who has no 'for-wyrhta' nor any land.

Third

That we count always x men together and the chief should direct the nine in each of those duties which we have all ordained; and count afterwards their 'hyndens' together and one 'hyndenman' who shall admonish the x for our common benefit; and let these xi hold the money of the 'hynden' and decide what they shall disburse when aught is to pay and what they shall receive if money should arise to us at our common suit; and let them also know that every contribution be forthcoming which we have all ordained for our common benefit after the rate of xxx pence or one ox; so that all be fulfilled which we have ordained in our ordinances and which stands in our agreement.

Fourth

That every man of them who has heard the orders should be aidful to others as well in tracing as in pursuit so long as the track is known and after the track has failed him that one man be found where there is a large population as well as from one tithing where a less population is, either to ride or to go (unless there be need of more) thither when most need is and as they all have ordained.

Fifth

That no search be abandoned either to the north of the march or to the south before every man who has a-horse has ridden one riding and that he who has not a horse work for the lord who rides or goes for him until he come home, unless right shall have been previously obtained.

Sixth

1. Respecting our 'ceap gild' a horse at half a pound if it be so good and if it be inferior let it be paid for by the worth of its appearance and by that which the man values it at who owns it unless he have evidence that it be as good as he says and then let us have the surplus which we there require.

2. And an ox at a 'mancus' and a cow at xx and a swine at x and a sheep at a shilling.

3. And we have ordained respecting our 'theowmen' whom men might have; if any one should steal him that he should be paid for with half a pound; but if we should raise the 'gild' that it should be increased above that by the worth of his appearance and that we should have for ourselves the surplus that we there require. But if he should have stolen himself away that he should be led to the stoning as it was formerly ordained; and that every man who had a man should contribute either a penny or a halfpenny according to the number of the fellowship so that we might be able to raise the worth. But if he should make his escape that he should be paid for by the worth of his appearance and we all should make search for him. If we then should be able to come at him that the same should be done to him that would be done to a 'Wylisc' thief, or that he be hanged.

4. And let the 'ceap gild' always advance from xxx pence to half a pound after we make search; further if we raise the 'ceap gild' to the full 'angylde' and let the search still continue as it was before ordained though it be less.

Seventh

That we have ordained: let do the deed whoever may that shall avenge the injuries of us all that we should be all so in one friendship as in one foeship whichever it then may be and that he who should kill a thief before other men, that he be xii pence the better for the deed and for the enterprise from our common money. And he who should own the property for which we pay let him not forsake the search on peril of our 'oferhyrnes' and the notice therewith until we come to payment and then also we would reward him for his labour out of our common money according to the worth of the journey lest the giving notice be neglected.

Eighth

1. That we gather to us once in every month if we can and have leisure, the 'hynden men' and those who direct the tithings as well with 'bytt-fylling' as else it may concern us and know what of our agreement has been executed and let these xii men have their refection together and feed themselves according as they may deem themselves worthy and deal the remains of the meat for the love of God.

2. And if it then should happen that any kin be so strong and so great within land or without land whether xii 'hynde' or 'twy-hynde' that they refuse us our right and stand up in defence of a thief that we all of us ride thereto with the reeve within whose 'manung' it may be.

3. And also send on both sides to the reeves and desire from them aid of so many men as may seem to us adequate for so great a suit that there may be the more fear in those culpable men for our assemblage and that we all ride thereto and avenge our wrong and slay the thief and those who fight and stand with him unless they be willing to depart from him.

4. And if any one trace a track from one shire to another let the men who there are next take to it and pursue the track till it be made known to the reeve let him then with

his 'manung' take to it and pursue the track out of his shire if he can; but if he cannot let him pay the 'angylde' of the property and let both reeveships have the full suit in common be it wherever it may as well to the north of the march as to the south always from one shire to another so that every reeve may assist another for the common 'frith' of us all by the king's 'oferhyrnes.'

5. And also that every one shall help another as it is ordained and by 'weds' confirmed and such man as shall neglect this beyond the march let him be liable in xxx pence or an ox if he aught of this neglect which stands in our writings and we with our 'weds' have confirmed.

6. And we have also ordained respecting every man who has given his 'wed' in our gildships if he should die that each gild brother shall give a 'gesufel' loaf for his soul and sing a fifty or get it sung within xxx days.

7. And we also command our hiremen that each man shall know when he has his cattle or when he has not on his neighbours' witness and that he point out to us the track if he cannot find it within three days for we believe that many heedless men reck not how their cattle go for over-confidence in the 'frith.'

8. Then we command that within iii days he make it known to his neighbour if he will ask for the 'ceap gild' and let the search nevertheless go on as it was before ordained for we will not pay for any unguarded property unless it be stolen. Many men speak fraudulent speech. If he cannot point out to us the track let him shew on oath with iii of his neighbours that it has been stolen within iii days and after that let him ask for his 'ceap gild.'

9. And let it not be denied nor concealed if our lord or any of our reeves should suggest to us any addition to our 'frith gilds' that we will joyfully accept the same as it becomes us all and may be advantageous to us. But let us trust in God and our kingly lord if we fulfil all things thus that the affairs of all folk will be better with respect to theft than they before were. If however we slacken in the 'frith' and the 'wed' which we have given and the king has commanded of

us then may we expect or well know that these thieves will prevail yet more than they did before. But let us keep our 'weds' and the 'frith' as is pleasing to our lord; it greatly behoves us that we devise that which he wills and if he order and instruct us more we shall be humbly ready.

Ninth

That we have ordained respecting those thieves whom one cannot immediately discover to be guilty and one afterwards learns that they are guilty and liable; that the lord or the kinsmen should release him in the same manner as those men are released who are found guilty at the ordeal.

Tenth

That all the 'witan' gave their 'weds' all together to the Archbishop at Thunresfeld, when Ælfeah Stybb and Brihtnoth Odda's son came to meet the gemot by the king's command; that each reeve should take the 'wed' in his own shire; that they would all hold the 'frith' as king Æthelstan and his 'witan' had counselled it first at 'Great-anlea' and again at Exeter and afterwards at Feversham and a fourth time at Thunresfeld before the archbishop and all the bishops, and his 'witan' whom the king himself named who were thereat: that those dooms should be observed which were fixed at this 'gemot' except those which were there before done away with; which was Sunday marketing and that with full and true witness any one might buy out of part.

Eleventh

That Æthelstan commands his bishops and his 'ealdormen' and all his reeves over all my realm that ye so hold the 'frith' as I and my 'witan' have ordained. And if any of you neglect it and will not obey me and will not take the 'wed' of his 'hiremen' and he allow of secret compositions and will not attend to these regulations as I have commanded and it stands in our writs then be the reeve without his

'folgoth' and without my friendship and pay me cxx shillings and each of my thanes who has land and will not keep the regulations as I have commanded [let him pay] half that.

Twelfth

1. That the king now again has ordained to his 'witan at 'Witlanburh' and has commanded it to be made known to the archbishop by bishop Theodred that it seemed to him too cruel that so young a man should be killed and besides for so little as he has learned has somewhere been done. He then said that it seemed to him and to those who counselled with him that no younger person should be slain than xv years, except he should make resistance or flee and would not surrender himself; that then he should be slain as well for more as for less whichever it might be. But if he be willing to surrender himself let him be put into prison as it was ordained at 'Greatanlea,' and by the same let him be redeemed.

2. Or if he come not into prison and they have none, that they take him in 'borh' by his full 'wēr' that he will evermore desist from every kind of evil. If the kindred will not take him out nor enter into 'borh' for him then let him swear as the bishop may instruct him that he will desist from every kind of evil and stand in servitude by his 'wēr.' But if he after that again steal let him be slain or hanged as was before done to the older ones.

3. And the king has also ordained that no one should be slain for less property than xii pence worth unless he will flee or defend himself and that then no one should hesitate though it were for less. If we it thus hold then trust I in God that our 'frith' will be better than it has before been.[1]

It is worth while transferring the text of this remarkable document to these pages. Not enough

[1] *Ancient Laws and Institutes of England*, folio, 97-103; Kemble, *Saxons in England*, ii. 521-527.

use has been made of it by historians, and it has not been examined from all points of view. There is one aspect of it in particular which seems to me to be the key to understanding the whole, and this has not hitherto been touched upon.

Let me first note that this document comes to us from Æthelstan's reign, and that this king "had carried the influence of the crown to an extent unexampled in any of his predecessors."[1] But what do we get? Certainly not a royal charter. Not a royal decree — not even a royal sanction. What the Londoners did was to pass their own laws by their own citizens without reference to the king at all, and it is important to observe that the chief men of the city, who accomplished this work, were the bishops and reeves of London. What happened afterwards was evidently this: that the code passed by the Londoners was sent to the king for him to extend its application throughout the kingdom, and this is done by the eleventh section. Up to section 9, the law is Londoners' law, and it is sufficient that London should make this law. Section 10 describes a conference, as we should now call it, between the king's counsellors and the Londoners, and section 11 makes it known to the kingdom at large, that where it is necessary to put the Londoners' law in force outside London it is the king's command that it should be so put. We thus have it shown by express words that London claimed to be a law-making authority, and claimed it not against an opposition, but by right of unquestioned practice.

[1] Kemble, *Saxons in England*, ii. 312.

Turning to the contents of the code it is clear that Londoners had a grievance. "Many men speak fraudulent speech," they proclaim. They have before them the fear "that these thieves will prevail yet more than they did before." And what then was the grievance? The code is an elaborate protection against theft. It sets forth the rules and laws which should in the future govern acts of theft of property belonging to Londoners. I pass by the actual form of the code, the primitive construction of the sentences, the lack of consecutive order, and the clumsy method of setting forth their decisions, because interesting points as these are to the historical jurist, they do not equal in importance the object of the law. That it should deal only with the crime of theft is so remarkable that it must point to something of importance which had occurred in the relationship of the city to the country at large. The citizens of London, descendants of the Roman merchants, adhesions from the Saxon classes who turned to trading, infusions of Danes and foreigners of all kinds, were above all things traders—men to whom the law of theft was of supreme importance. Evidently by the fact of this new code, the citizens of London sought to bring their laws as to theft into line with the rest of the country. I hope the significance of this fact is understood. Primarily, of course, it means that the laws of London did not agree with the laws of the Saxons. These depended entirely upon blood kinship within the Saxon tribe. If you erred you were defended, or ransomed, by your kinsmen. You in turn had to stand by your

kinsmen. That there was no such bond of kindred in London is shown by these very laws of the Londoners which we are considering. They had to resort to an artificial bond, not of blood relationship, but of mutual interest. They formed groups of ten men, or rather ten households, and these groups bound themselves to aid each other in the pursuit of thieves, in the avenging of each other's wrongs, and in other purposes elsewhere belonging to the natural group of kinsmen. Let do the deed whoever may, says the law, that shall avenge the injuries of us all, that we should be all so in one friendship as in one foeship, whichever it then may be. Another rule is a remarkable one: And if it then should happen that any kin be so strong and so great, within land or without, that they refuse us our right and stand up in defence of a thief; that we all of us ride thereto with the reeve within whose manung it may be.

Here is the kinship group of the country put in direct contrast with the surety-group or frith-gild, formed by the city of London. Finally there is this remarkable rule that "no thief be spared over xii pence and no person over xii years." Now a person under fourteen years of age was in the jurisdiction of the housefather, he was unknown to the Anglo-Saxon law and was responsible for nothing. According to the London code, however, he was made responsible for his own act when he reached the age of twelve, and this shows as clearly as anything that the kinship laws of the Saxons did not obtain in London. Individuals were there, as under the Roman law,

personally responsible for their own acts. But the Saxons did not understand this innovation upon their system, and in respect of this very law passed by the Londoners King Æthelstan, the most powerful of the Saxon monarchs, passed his decree, that it seemed to him too cruel that so young a man should be killed and besides for so little as he has learned has somewhere been done. He then said that it seemed to him and to those who counselled with him that no younger person should be slain than xv years except he should make resistance or flee and would not surrender himself.

The provision which follows makes it clear that his kindred were to be responsible for him in the first place. Here is the great King Æthelstan telling the Londoners that their law of personal responsibility is too much out of line with Saxon law where responsibility was with the kin and not with the individual. There is no charter setting the matter right, no decree telling the Londoners to alter their law, but merely the expression of the opinion of the king and his witan, an expression, no doubt, having the force of law, but there is not the form of law.

There are other interesting points in this remarkable code of London laws, but I have given all that I need for my present purpose. Let me ask for a reconsideration of these laws. They are the laws, as it appears to me, made by the London citizen for protection against an opposing set of laws with which they were not familiar, or which had been forced upon their notice by their hostile

operation against city law, namely, the Saxon kinship law; a code made by themselves without let or hindrance or sanction by the king, and which the king, being accustomed to the Saxon kinship system, tried to alter because it "seemed to him too cruel that so young a man should be killed." And if they were not Anglo-Saxon kinship laws, not, in fact, kinship laws at all, but laws enacted to meet the emergency created by the existence of kinship laws outside London, where Londoners were trading and wished to trade, they must have been the work of men accustomed to a non-kinship system of law and capable of legislating upon a non-kinship basis. Where, then, could this non-kinship law have been derived?

Bearing in mind the evidences as to the survival of Roman London in late times, and therefore throughout Anglo-Saxon times, it is not too much to suggest that the source of this non-Saxon element in London must have been the continued Roman element, and we thus arrive at the dual elements in Anglo-Saxon England, the state element as it may be called, represented by the cities, the tribal element represented by the settlements in the open country,[1] just

[1] Dr Gross's views do not conflict with mine. (*Gild Merchant*, i. 178-181.) Mr Kemble (*Saxons in England*, ii. 333-335) agrees that this code shows the independence of London; Mr Chadwick (*Studies on Anglo-Saxon Institutions*, 247) seems to me just to miss the real point of the case, but a parallel case to that I have worked out for London is described by Mr Seebohm in the case of the Helvetian Valley, between Neuchatel and Geneva, occupied by a population under Roman law, and an intruding Burgundian people under the tribal law. The whole case lends force to my argument. See Seebohm, *Tribal Custom in Anglo-Saxon Law*, 121-125.

that dual element and conflict between two different systems of law, a state law and a tribal law, which Edmund Spenser and Sir John Davies found in Ireland, and of which they so bitterly complained[1] in Elizabeth's reign.

Further examination will lead us to the formation of the "English cnihtengild," which Mr Coote so learnedly investigated.[2] It was formed probably in the reign of Eadgar, years after the Æthelstan code had been passed. It was formed too by the citizens themselves, for there is no grant extant, and the reference back to the gild from the charter of Eadward the Confessor distinctly does not refer to charters—"And I will that they retain the good laws which they had in King Eadgar's day and in my father's and Cnut's day."[3] Its object was the defence

[1] The parallel here suggested is really remarkable. The state law of England did not run in Ireland, and Edmund Spenser particularly demanded that "every head of every sept and every chief of every kindred or family should be answerable and bound to bring forth every one of that sept and kindred under it at all times, to be justified when he should be required, or charged with any treason, felony, or other heinous crime," and complained that "the evil which now I find in all Ireland that the Irish dwell together by their septs, and several nations so as they may practise and conspire what they will" (Edmund Spenser, *View of the State of Ireland*, 1595, Morley's edit. 72, 165), all of which, in the opinion of Sir John Davies, is opposed to "the just and honourable law of England." (Davies, *Discovery of the True Causes why Ireland was never entirely subdued*, 1612, Morley's edit. 291.)

[2] *London and Middlesex Arch. Soc.* v. 476-492.

[3] Mr Coote suggests that this refers to "royal grants," but he had not considered the facts which tell against the supposition. And indeed he distinctly says in his study of this gild, "no English king before the Norman conquest ever exercised the right of licensing a gild. Every gild was then perfectly legal without royal authority" (p. 483). In any case, there being no reference to such grants, I am entitled to the conclusion that the usual rule of independent action by the city would obtain.

of the city by a gild of men trained to battle, and that it was formed on the artificial gild system, as was the frith-gild of Æthelstan's day, suggests to me that this is one more instance of the Londoner's method of meeting the new kinship organisation which existed outside London.[1]

II

From this point we must proceed somewhat differently. The matter before us becomes a question which can only be asked in the following terms: What is the evidence that exists as to the descent of Roman municipal custom in London: what is the evidence of Teutonic tribal custom: and, finally, in what relationship do they stand towards each other?[2]

Now the mere grouping of London municipal customs into Roman and Saxon origins will not establish the fact we are most anxious to get at, namely, which system of polity predominated in the government of London? But if we see one group of customs becoming distinctly and clearly recognised as municipal law, and so losing its historical origin

[1] A very interesting phase of the relationship of Roman Lundinium to the surrounding Celtic tribes showing the dividing line between the two is preserved in an extensive group of treasure legends which have London bridge for their central feature, and I have worked out the whole subject in my new volume on *Folklore Problems*.

[2] "I shall next take notice of some ancient customs which had their original from the Romans (as I take it) . . . . and if a collection of all of them were drawn up and published together I am apt to think that it would be very useful as well as a pleasant undertaking, and conduce in a great measure to the clearing of many particulars of Roman history." (Bagford's letter in Hearne's *Itinerary of Leland*, i. lxxiv.)

in its later utility, and if we see another group of customs delegated to municipal usage only, having no force as municipal law, we may be reasonably sure as to the method of fixing upon the dominating power. The men who practise customs because their fathers practised them, though they have a historical continuity of race, have no historical continuity of power if they have not succeeded in getting those customs promoted to the dignity of legal sanction. The case thus stated in general terms is applicable to the early municipal history of London: we see municipal law and municipal custom side by side; the one with a legal or political sanction at the back of it, the other supported by social effort only. I have succeeded in collecting what I venture to characterise as a remarkable collection of customs practised in London far down in the mediæval ages, and which are unquestionably of Teutonic origin. But I have not found this body of custom recognised or codified. It obtains in one locality, and not in another; it is mentioned incidentally by one authority and not by another; it is practised by one body of citizens and not by another; it has no cohesion one item with another, no systematic codification into municipal law; it is, in short, the sport of an undercurrent life of the citizens, and not the outspoken action of the dominant life. And hence I conclude that this Teutonic custom existing here in the midst of mediæval London had met with a power with which it was hard to fight. That power could not have been Norman, because the Normans, partly Teutonic themselves, would have legalised or char-

tered their innovations. And the London charters of Norman times are distinct and definite in their formal recognition of existing municipal law. If it was not the Norman, then, who fought with the Teuton and relegated his barbarous law into municipal custom, it must have been the Roman. The Roman with his precious gift of commercial insight, with the growing powers of wealth, stood firm to his old ways; and while the Saxon Londoners kept their folkmoots, drowned their criminals, pilloried their minor offenders, the Roman merchants kept to their own laws, until they ultimately superimposed them upon the whole community.

The Anglo-Saxons, as masters of England, would introduce as much of the tribal system, or its central ideas, as they could into the government of every town they dominated. In what position then do we find the Saxon system of government in London?

Commencing with the subject of municipal polity, let us see what evidence there is of tribal life as the basis of later municipal life in London. Mr Coote draws attention to the fact that the citizens of London were landowners,[1] and he specifies two remarkable instances, namely, Becket's father and Osbern, who in later days held many possessions.[2]

FitzStephen, as early as the reign of Henry II., gives an account of the lands held by the citizens.[3]

[1] *Romans of Britain*, 337. [2] *Ibid.* 380.

[3] Mr Loftie does something more than suggest that, in the oldest days, the aldermen were the owners of their respective wards (*History of London*, i. 158-161), but this is pure conjecture based upon no evidence, and is the offspring of Mr Loftie's conception of London as an Anglo-Saxon city.

Everywhere, he says, without the houses of the suburbs, the citizens have gardens extensive and beautiful, and one joining to the other (*contigué*). Then he describes the arable lands of the citizens as bringing plentiful corn, and being like the rich fields of Asia. And then comes the pastures. On the north side there are pasture fields, and pleasant meadows intersected by streams, the waters of which turn the wheels of mills with delightful sounds. Very near lies a large forest in which are wild beasts, bucks and does, wild boars and bulls.[1]

Henry III. is recorded as giving away in 1265 more than sixty houses belonging to the citizens, they with all their families being expelled.[2] The charter of Edward III., 1327, contains the following clause relating to the lands of the citizens:

"Also we grant, that the lands and tenements (lying without) of the said citizens, which have been, or hereafter shall be ministers of the said city, be bound to keep the said city harmless against us and our heirs, of those things which concern their offices, as their tenements be within the said city."[3]

At this point we are introduced to the law of London with regard to heirship to property. This was that a man should leave one-third of his property to his children, one-third to his wife, and the remaining third he might dispose of as he pleased, and Mr

[1] *Liber Cust.* i. 4.

[2] *Chronicles of the Mayors and Sheriffs of London*, 59.

[3] Item, quod tenementa forinseca civium Londoniarum qui fuerunt, vel exnunc erunt, ministri civitatis prædictæ, sint obligata ad conservandam dictam civitatem indemnem, etc, de hiis quæ officia sua contingunt, sicut tenementa sua infra eandem civitatem. (*Liber Albus*, i. 147.)

Spence is of opinion that "in Kent, in London, and in York, it appears to have continued in uninterrupted succession from the time when Britain was a Roman province."[1] It was only abolished in London by a statute of George I. (11 cap. 18), and it is pure Roman law.[2] In London, however, its sanction was not the code of Justinian but citizen rights, and one cannot emphasize too strongly the importance of this fact. That the rights originated in Roman Lundinium is the necessary conclusion to be drawn, but it is equally important to note that it was kept up by the claim of citizens to their own law.[3] We have in this an

[1] *Equitable Jurisdiction of the Court of Chancery*, 188.

[2] The Roman law is to be found in *Cod. Theod.* ii. 19, 4, and Justinian, ii. 18, 1.

[3] It would be well to have an example of this law being put into force. The will of John Mabb, citizen of London, 7th November 1578, was printed by Mr Rendle in the *Athenæum*, 23rd July 1887, and on p. 117, col. 3, occurs the following passage: "And after my debtes paide and funerall discharged, I will that all and singular my goods, cattells, debtes plate, monneye, and juells, shalbe equallie apportioned into three equall partes, *according to thauncient custome of this citye of Londoun*, one of whiche partes I doe gyve and bequeathe to Isabell my wel beloved wief, in the name of her parte and reasonable portioun of all my saide goods and of all other the premisses by reason of the saide custome to her to be due and belonginge. And one other parte of the said three parts I doo gyve and bequeathe to and amoungest my fyve sonnes and three daughters." The third part is distributed generally. Another point that is worth illustrating is the manner in which this customary law of London operated in cases where the citizen held other property elsewhere than in London. This is shown by a writ addressed to the mayor and sheriff of London in 1274: "Whereas Peter de Stok by his charter lately enfeoffed Henry de Waleys with a messuage in London which Peter and his heirs are bound to warrant to him, and Joan, late the wife of John son of John, son of Saer demands a third of the messuage against Henry by the king's writ of dower in the king's court of the city, and Peter, although he has nothing in the city whereby he can be compelled to such warranty has elsewhere in the realm sufficient tenement for this, and the king ought not to will that Henry should

instance of the force which was at the back of the organisation in London, keeping its laws separated from the general law of the land, and continuing in English London what had begun in Roman Lundinium.

Passing to lands held by the city, the *Liber Albus*[1] contains a most instructive list of grants and agreements made by the city. "Concessio majoris et communitatis" is the formula; and the mayor and community grant extramural property away with a free hand—"de domo vocata Bedlem extra Bysshopisgate, de domo extra Newgate, de quadam domo extra Crepulgate." And besides these there are such instructive documents as "Memorandum de quadam Placea terræ extra Crepulgate capta in manum Civitatis." I cannot conceive a more instructive piece of work than a map of the city property, restored from the archives and documents of the city, to show the possessions of the earliest times. Mr Riley, in his introduction to the *Liber Custumarum*, has summarised from the text of that remarkable volume several instances of public land, that is, land belonging

incur danger of disinheritance for default of such warranty if Peter wish to escape it fraudulently especially as the king is debtor to everyone of his kingdom in justice; he therefore grants on this occasion that if Henry vouch Peter to warranty for this third part before the mayor and sheriff against Joan, the mayor and sheriff shall cause to be made a writ of judgment summoning Peter elsewhere in the kingdom where he has lands to answer before them in the king's court of the city concerning making the said warranty, and that they shall send the writ to Chancery to be sealed with the king's seal, whereby full justice may be exhibited to the parties in this suit. Given by the hand of W. de Merton the chancellor." (*Close Rolls*, 2 *Edward I.*, 1274 Calendar, 73-74.)

[1] Vol. i. p. 552.

to the municipality, having been appropriated and built upon.[1] We get a glimpse of this corporation property, too, from the *Chronicles of the Mayors and Sheriffs of London.* At page 35 of Mr Riley's edition we read how Henry III. issued letters patent restoring the rights of the citizens, among which it is said that "they shall have all issues of rents arising from houses and tenements as well in the city aforesaid as in the suburbs thereof." And again, at page 83, we read how the populace, in 1262, "endeavoured to throw open lanes which, by writ of his lordship the King, and with the sanction of the Justiciars Itinerant, the community assenting thereto, had been stopped up and rented to certain persons."[2]

Stow gives us some information about the enclosure of lands in his day, and as it alludes to the defence of ancient rights, it is correct to quote it here. At Houndsditch, he says, "was a fair field," which, "as all other about the city was inclosed, reserving open passage thereinto for such as were disposed." Again he says:

"And now concerning the inclosure of common grounds about this city whereof I mind not much to argue, Edward Hall setteth down a note of his time, to wit, in the 5th or 6th of Henry VIII. Before this time, saith he, the inhabitants of the town about London, as Iseldon, Hoxton, Shoreditch and others, had so inclosed the common fields with hedges and ditches, that neither the young men of the city might shoot, nor the ancient persons walk for their pleasures in those fields; but that either their bows and arrows were taken

[1] *Introduction*, cx.-cxiii.

[2] Miss Bateson notes a very interesting list of rents in Thames Street. (*Eng. Hist. Rev.* xvii. 483.)

away or broken, or the honest persons arrested or indicted, saying that no Londoner ought to go out of the city, but in the highways. This saying so grieved the Londoners, that suddenly this year a great number of the city assembled themselves in a morning, and a turner in a fool's coat came crying through the city, 'Shovels and spades!—shovels and spades!' So many of the people followed, that it was a wonder to behold; and within a short space all the hedges about the city were cast down, and the ditches filled up and everything made plain, such was the diligence of these workmen."[1]

These facts show us, I think, the existence of two systems of ownership, individual and corporate, and also that the one was struggling against the other for mastery. Such a struggle could not have resulted from the existence of a Roman municipal polity, which fully recognised individual ownership; and it must have resulted from the opposition of Saxon polity which only recognised community of ownership. The question is, how did this struggle operate? The city lands in Finsbury[2] and Smithfield are not true instances of the communal landholding of the Anglo-Saxon type, for they are obviously survivals of another and later state of things; the action of the citizens with regard to the common lands outside the city is not a true instance of the recognition of communal landholding, for it was the concerted

[1] Stow's *Survey* by Thoms, 159.

[2] See *Chronicles of the Mayors and Sheriffs of London*, 174, for an account of how nearly this was lost to the citizens in 1173. A curious legend about Moorfields and its origin as citizen ground is contained in a ballad printed by the Percy Society (vol. i.). It illustrates the fact that the origin of this land as citizen land was entirely beyond memory. It is called *The Life and Death of the Two Ladies of Finsbury, that gave*

action of individual citizens, not the collective action of the corporate city.

We can, however, get no better facts than these to illustrate the relationship of individual and communal tenements following the introduction into London of the Saxon over-rule until we turn to some remarkable evidence to be found in old citizen custom. The tenement in the village was the basis of all rights in the village. It was, therefore, an important symbol, and its destruction would be considered most fatal. It was thus used as an engine of judicial procedure. At Folkestone, if either the mayor or any of the jurats refused to assume their respective offices upon being elected, "the commons were to go and beat down their principal messuage."[1] On the occasion of the election of bailiff at Hastings, it was a law that "if the said bailiff be absent, or will not accept the charge, all the commoners shall go and beat down his chief tenement."[2] The same law obtained in all the Cinque Ports, and it, moreover, belongs unquestion-

Moorfields to the City for the Maidens of London to dry Cloaths. A verse or two describes the events as follows:

"And likewise when maidens died
They gave those pleasant fields
Unto our London citizens
Which they most bravely build.
And now are made most pleasant walks
That great contentment yield
To maidens of London so fair.
Where lovingly both man and wife
May take the evening air,
And London dames, to dry their cloathes,
May hither still repair."

[1] *Report of the Record Commission*, 1837, 453.
[2] *Sussex Archæological Collections*, xii. 197.

ably to old Teutonic village law. It has also a much wider application in English provincial districts.

Now let us turn to London. The assize of Henry II. states "that the house of the individual who harbours a heretic shall be carried out of the town and burnt."[1] There is the same principle underlying this and the above-mentioned law. And if we turn to the Preston Guild laws we shall see how this is. Every new burgess was obliged to erect his burgage within forty days;[2] and the shortness of this period is explained by the fact noted by the authors of the *History of Preston Guild* (p. 47), Messrs Dobson and Harland, that the houses

"were formed of a framework of oak, and the interstices were filled with a sort of plaster formed of clay mixed with straw, reeds, or rushes. Each piece of wood in the framework was usually tenoned, fitted into a mortise, and fixed by a woodon peg. *The framework was put together by the builder before it was taken to the site.* When the old buildings facing the market-place were removed in 1855, much curiosity was excited by an examination of the framework, each tenon and mortise being numbered to correspond with each other, so that when the frame was placed on the site it had to occupy, the component parts could be as easily fitted to each other as when it was framed."

It appears also by one of the Paston letters, "that small houses were sometimes framed and made ready on the spot where the wood was felled." Some dispute having arisen the owner or occupier of the wood refused his consent to the carrying away of the

[1] § 21. See Palgrave, *Eng. Com.* ii. p. clxxiii.
[2] *Ancient Custumal of Preston*, § 5.

timber-work after it had been made ready to set up. The letter says:

"Brother Paston, I recommend me unto you, praying you that ye take the labour to speak with Thomas Ratcliffe, of Framsden (Suffolk), for the deliverance of part of a house which lyeth in his wood at Framsden, which house the owner hath carried part thereof to Oxford, which, so departed, the remanent that remaineth in his wood shall do him little good, and it shall hurt greatly the workmen and the owner thereof also, which is my tenant, and the house should be set upon ground."[1]

This carrying of the framework to the site clearly explains the possibility of carrying the houses out of the city of London, bearing in mind the evidence given by the assize of Fitzalwyne, first lord mayor of London, that the houses in the city were all thatched,[2] and the curious story told by Stow of his father's house having in one night been moved bodily some distance.[3]

Another distinguishing feature of the early Teutonic community was the powers of its assembly in the regulation and management of its lands. Such an assembly existed in some municipal boroughs in 1835 in a very distinct form; and the ancient powers of the London court of hustings are to be attributed to the same cause. In this court all kinds of real actions for the recovery of lands and tenements within the city and its liberties are cognisable; and in this language we can easily recognise a translation of that which would have described the archaic duties of

[1] Ramsay, *Paston Letters*, i. 33.
[2] *Liber Albus*, i. 328.
[3] Stow's *Survey* by Thoms.

the old village assembly, especially if we take into consideration the exceedingly curious powers which attend proceedings under this court. The recorder must pronounce judgment, and forty freeholders formed the inquest, chosen from twelve men and the aldermen from the ward where the tenements in question lie, and the same number from each of the three wards next to the said tenements.[1] Such a court as this was the result of no political legislation. It is the descendant of that archaic assembly which belonged to every tribal community.

But when we come to speak of the assembly of the citizens, there is much closer analogy to the assembly of old Teutonic communities; and its decay and final wiping out from the institutions of the city mark the struggle between the community as the Saxon Londoners understood it and the community as the Roman Londoners sought to make it. Nothing is more curious than the history of the London folk-moot. We see it standing out, now and again, in all its original strength, attended by all the citizens in early Teutonic fashion; but we see towering behind it, overshadowing it too, a small, compact body of aldermen, just such a body, in fact, as governed the Roman municipia, a high class of citizens — *optimates*, *meliores*, *primates*, *potentates* — who monopolised all municipal power and privilege to the absolute exclusion of the other class.[2] Though we see this struggle going on late down in history,

[1] See *Privilegia Londini*, 1701, 162. The four benches of the Hustings court are interesting details of the formation of the court. See Miss Bateson in *Eng. Hist. Rev.* xvii. 489.

[2] Coote, *Romans of Britain*, 368.

though our only record of it is a post-Norman chronicler, it appears to me to be something far greater, historically speaking, than a struggle for liberty against a mediæval tyrant king. If the actual struggle is against Henry III. and his faction, the contending parties are old foes, who have met and fought often before, who fight on the historic ground chalked out by the meeting-place of an open-air folkmoot, and who use such archaic weapons as the "Yea, yea," and "Nay, nay," of Teutonic folk-speech. We know how late in modern times relics of archaic custom have survived; and when I consider these struggles of mediæval Londoners, and all that they reflect of the past history of the city, it appears as if we were presented with a set of survivals as real as weapons of stone and bronze, to tell us of the age from whence they are descended.

The folkmoot was held in the open air, upon a piece of ground at the east end of St Paul's Church, adjoining the cross.[1] Here, at all events, we stand upon undoubted Teutonic ground, conquered from the Roman by men who knew and loved the tribal institutions they sought to transplant into the city. But then there is no evidence that this assembly of the citizens ever wholly dominated the city and was recognised as the supreme council.

The fight between the popular assembly or folkmoot, where every citizen had a right to attend, and the smaller body, is well related in the *Chronicles of the Mayors and Sheriffs of London*, 1188 to 1274.

[1] See *Liber Cust.* 338, 339, and my *Primitive Folkmoots*, 158, where I have discussed the archaic importance of this.

In 1249, upon the Abbot of Westminster and his advisers desiring to hold a conference with the mayor and aldermen, "the whole of the populace opposed it, and would not allow them, without the whole of the commons being present, to treat at all of the matter" (p. 18). Again, in 1257, on the occasion of charges being made against certain aldermen, the king gave orders to the sheriffs to convene the folkmoot on the morrow at St Paul's Cross, upon which day all the aldermen and citizens assembled there. The proceedings are fully described, but the passage interesting to us is the following:

"To which inquiry (no conference being first held among the discreet men of the city, as is usually the practice) answer was made by some of the populace, sons of divers mothers, many of them born without the city, and many of servile condition, with loud shouts of 'Nay, nay, nay'" (p. 38).

In 1262 we have the following remarkable passage:

"The mayor, Thomas FitzThomas, during the time of his mayoralty, had so pampered the city populace, that, styling themselves the 'commons of the city,' they had obtained the first voice in the city. For the mayor, in doing all that he had to do, acted and determined through them, and would say to them, 'Is it your will that so it shall be?' and then if they answered, 'Ya, ya,' so it was done. And on the other hand, the aldermen or chief citizens were little or not at all consulted on such matter" (p. 59).

In 1265 the populace cried "Nay, nay," to the proposed election of William FitzRichard as sheriff, and demanded Thomas FitzThomas (p. 91). In 1266 "the low people arose, calling themselves the commons of the city" (p. 59). In 1271 the old dispute broke

out again in the election of mayor, and the record of this is very instructive (pp. 154-156), though perhaps unnecessary to quote here.

In these curious and instructive passages I cannot doubt that we have a record of the final chapters of the history of the Teutonic folkmoot in London. Its name, its place of meeting, its popular form, its formula of "Yea, yea," or "Nay, nay,"[1] all proclaim its primitive origin. But then, under what circumstances do we see it with these evident signs of its historical origin? There are by its side "the discreet men of the city." We have never met with it, either before the date of these records we have quoted, or afterwards, as the dominant power of the city, impressing its forms and ceremonies, its political system, its derivative forces, upon the municipal history of the city. It was never powerful; it was only fitful. And we may well ask why the Teutonic conqueror who met in his folkmoot, without let or hindrance, deferred in municipal government to another body, separate and distinct from it? The answer I am inclined to seek in the masterful influence of the Romans of London, whose prowess, ingenuity, commercial acumen, and political insight, managed to keep at bay in some places the barbarism of Teutonic conquest.

Other subjects of municipal internal polity claim attention at this juncture. At the election of chief magistrate in Teutonic communities many curious and significant customs were observed, chiefly in connection with the old religion. In early days,

[1] Cf. Freeman, *Comparative Politics*, cap v.

when a village was first established, a stone was set up. To this stone the head man of the village made an offering once a year.[1] Of the many traces of this custom in England I will not speak here, but of its survival as a London municipal custom there exists some curious evidence accidentally preserved, and it relates to London Stone. Holinshed tells us that when Cade in 1450 forced his way into London he first of all proceeded to London Stone, and, having struck his sword upon it, said: "Now is Mortimer (*i.e.* Cade) lord of this city." Pennant in 1793 was the first to note that this act was something more than meaningless nonsense,[2] but it was reserved for Mr Coote to put it in its true place as a fragment of municipal folk-lore.[3] He points out that Holinshed attached a meaning to it, and that the crowd of Londoners who witnessed it must have attached a meaning to it. Well, what was that meaning? It is almost lost to us in London municipal custom. We find that London Stone entered into municipal legal procedure, as when a defendant in the lord mayor's court had to be summoned from that spot, and when proclamations and other important business of the like nature took place there;[4] but there is

[1] For examples, see *Indian Antiquary*, ii. 66 ; Biddulph, *Tales of the Hindoo Koosh*, 105-107, 114 ; Forbes Leslie, *Early Races of Scotland*, ii. 497.

[2] *Some Account of London*, 4.

[3] *London and Middlesex Archæological Society*, v. 282.

[4] Brandon, *Customary Law of Foreign Attachment*, 6; and Lord *Mayor's Court of the City of London*, 14. In *Pasquill and Marfarius*, 1589, two passages occur which illustrates this point. "Set up this bill at London Stone. Let it be doone sollemly with drom and trumpet and looke you advance my cullour, on the top of the steeple right over against

no direct clue to the action of Cade and its consequent association of London Stone with an archaic Teutonic custom. Yet if we turn to a parallel municipal custom elsewhere we shall find the clue we are in search of. On the mayor's day at Bovey Tracy the mayor used to ride round the stone-cross and strike it with a stick.[1] This significant action proclaimed the authority of the mayor of Bovey, and it is not difficult to translate this curious parallel into the explanation needed to solve the old municipal custom at London Stone. But it will be noted that while at Bovey Tracy the custom obtains almost the force of a municipal law, in London it had sank so low in its scale of importance as only to have been rescued from oblivion by the record of the acts of a rebel.

I can refer back at this point to what has already been said about the position of London Stone in relation to the earlier Roman London. If it was held in some degree of veneration by the citizens of Roman London when first the Anglo-Saxons entered into London to claim her alliance in the struggle they were engaged in, against a common enemy, there is nothing in Anglo-Saxon thought to prevent that degree of reverence being sustained, and when the Anglo-Saxon kings claimed London as part of their state organisation and Anglo-Saxon citizens of London entered into her new life, the endowment of London Stone with a new sacredness,

it," and "if it please them these dark winter nights to sticke uppe their papers uppon London Stone." Quoted in J. T. Smith's *Streets of London*, ii. 307.

[1] Ormerod, *Archæology of Eastern Dartmoor*, 11.

a sacredness derived from ancient Teutonic rite and ceremony, would naturally follow. This, it seems to me, is the true position of London Stone in London history, and it not only reflects back to the earliest Roman origin of London, but contains the newer element of Saxon life, the two conditions being thus brought into definite juxtaposition.

I have another remarkable custom to mention in connection with this stone-worship, if it may be so designated. In the *Totnes Times*, of 13th May 1882, is an account of the customs adopted on mayor's Monday at Bovey Tracy, which gives us the additional piece of information, unnoticed by Mr Ormerod in the book above quoted, that young men were induced to kiss the magic stone, pledging allegiance in upholding ancient rights and privileges. In Dublin the custom of kissing the "lucky stone" in the city was long kept up. Edinburgh too has its stone custom.[1] In London there is a remarkable survival of such a custom, though it is not identified with London Stone. In Bagford's Letter to Hearne[2] there is related how the porters at Billingsgate "used civilly to intreat and desire every man that passed that way to salute a post that stood there in a vacant space. If he quietly submitted to kiss the same, and paid down 6d., then they gave him a name, and chose some one of the gang to be his godfather." Now, in these curious relics of old London life we

[1] *Notes and Queries*, v. 377, for the Dublin custom of kissing the lucky stone; and Guthrie, *Old Scottish Customs*, 41, for the Edinburgh custom of bumping every new burgess against a stone.

[2] See Hearne, *Leland's Itinerary*, i. p. lxxiv.

have stumbled upon a set of facts altogether outside the municipal formularies of Roman London. That they are hidden among the popular customs, as distinct from municipal law, proclaims that they had been ousted from their official place by a power that we must recognise to be Roman, but that they exist at all shows that they owed their origin to a power which we must recognise as extremely archaic, and therefore Teutonic.

Other facts about the chief magistrate are equally important as indicating the origin of the ceremonial. A copy of a letter exists among the archives of London, dated about 1582, written by the Lord Mayor to the Lord Chancellor, and complaining:

"that when he (the Lord Mayor) attended to take his oath without the Tower Gate, he had Her Majesty's sword carried before him in the streets, as had been the custom to carry it in Westminster Hall until they came to the bar of Her Majesty's Court, when the sword was reversed by the sword-bearer as in the presence of Her Majesty; and so it had intended to be done when arriving at the place where the Lieutenant sat as had been the custom. They were met at the corner of Tower Street by two of the warders, who commanded Her Majesty's sword to be holden down, and pressed violently to take it down, but through good discretion of the Recorder they were peaceably holden off."[1]

Later on, in 1633, a similar dispute took place with reference to the right of the Lord Mayor to have the sword borne up before him within St. Paul's Cathedral, and "especially within the choir."[2] Now this right was also defended by another important

[1] *Remembrancia*, 342.
[2] *Ibid.* 328.

and ancient corporation, namely, Chester, and it carries us further back into antiquity than the date of the dispute. It does not owe its origin to any charter, but existed as one of the popular privileges of self-governing communities long before the era of charters. This is shown by the curious analogy which exists in a self-governing community whose origin and practice is admittedly archaic. One of the ceremonies incidental to the great folk-meeting on Tynwald Hill, in the Isle of Man, was according "to the constitution of old time," that the lord should "sitt in a chaire . . . with the sword before him holden with the point upwards."[1] It should not be forgotten that here we have a typical ceremony of the election of the tribal chiefs of primitive communities, and the parallel to municipal custom is not too far apart to admit of the conclusion, that in this example of old municipal custom we have a survival from old tribal custom.

The sheriffs of London had, in old times, a post before their doors, upon which it was customary to affix proclamations; this was one of the indications of their office, and is referred to in the following verses:

"I hope my acquaintance goes in chains of gold — the *posts* of his gate are a painting too." DEKKER, *Honest Whore.*

"If e'er I live to see thee sheriff of London,
I'll gild thy painted *posts*." ROWLEY, *New Wonder* (1632).[2]

"Posts without door indeed to make a show at a new chosen magistrate's gate." BEAUMONT AND FLETCHER, *Widow.*

[1] Train, *History of the Isle of Man*, ii. 188.
[2] Toone, *English Glossary*, 370, s.v. "Post."

Mr Repton has noted this custom, and has given drawings of very handsome posts which were *in situ* at Elm Hill, Norwich, and he notes that it was usual out of respect to read the proclamations fastened on the sheriff's post bareheaded.[1] These notes of an obscure but interesting custom take us, I am convinced, to Roman usage, and it is well to have them recorded with the other relics of custom and usage which illustrate our subject.

We may turn from ceremonial to legal custom and practice. In the statement of London laws which Miss Bateson unearthed and edited is one of special interest:

"If it happen within a fortnight one of the witnesses dies, the one that survives shall prove the dead man's evidence on oath, and for this purpose he shall be taken to the tomb of the dead man, and there he shall swear that if the dead man were living he would bear his testimony."[2]

This remarkable custom is more than once referred to in the charters of boroughs modelled on London as one which they must not imitate, and it was abrogated in London itself by the charter of Henry III. in 1268. Now not only is this custom clearly not Roman in origin, but it is as clearly Teutonic and pagan Teutonic. The ghost of the dead seems to be conceived of as haunting the tomb and sanctioning or rejecting the oath of the living, and Miss Bateson, who thus correctly understands the archaic construction of this law, goes on very properly to compare it with

[1] *Archæologia*, xix. 383-385, Dodsley, *Plays*, iii.

[2] Miss Bateson, *Eng. Hist. Rev.* xvii. 488, 493: Riley, *Chronicles of London*, 108.

its parallel in Welsh law,[1] and in Manx law,[2] and to the Saxon laws of Ine,[3] by which an oath was given on the tomb of the dead slave-buyer to prove that the slave was honestly bought.

Miss Bateson thinks "it is strange to find in thirteenth-century London this curious trace of primitive mythology,"[4] but I think in juxtaposition with what has already been noticed of Teutonic custom this strangeness disappears. There are companions to it. Among the punishments for offences against the laws is that of drowning. At Execution Dock the criminals were in the eighteenth century executed on a temporary gallows placed at low-water mark, but the custom of leaving the body to be overflowed by three tides "has long since been omitted."[5] It appears to me that this curious practice bears upon the face of it the character of an archaic survival, and something which indicates a Teutonic origin; and it is an important fact to notice that the transitional form mentioned by Pennant can be proved to have originated from actual practice. Thus in the first volume of the *Codex Diplomaticus* is a record of a woman who, being condemned to death for aiming at the life of a nobleman, was executed by drowning on London Bridge in the middle of the tenth century.[6] A singular prerogative, belonging to the castellan of Baynard's Castle, con-

[1] *Ancient Laws of Wales*, i. 431.
[2] *Old Historians of Isle of Man* (Manx Society, 1871), 24.
[3] Thorpe, *Ancient Laws and Inst.* 59, 123.
[4] *Eng. Hist. Rev.* xvii. 489.
[5] Pennant, *Some Account of London*, 324.
[6] Kemble, *Cod. Dip.* No. dxcl.

sisted in the fact that, if any traitor was taken within his soke, or jurisdiction, it was his duty to sentence him to death by drowning, in conformity wherewith the offender was bound to a pillar in the Thames, used for mooring vessels, at Woodwharf, near Baynard's Castle, and left there two floods and two ebbs of the tide.[1] We read also, in the *Liber de Antiquis Legibus*, that in the year 1266, while the Earl of Gloucester was treating for peace with Henry III. at Westminster, certain of his partisans pillaged many of the citizens of London, and slew one of their number; whereupon the Earl had four of the offenders seized, bound hand and foot, thrown into the Thames, and drowned. And such, the chronicler adds, was the judgment passed during all this period upon those who were condemned.[2] I should like to lay stress upon the importance of this evidence, because it is an example, all too seldom found, of a modern custom meeting its true explanation and significance by a reference to ancient custom, and it thus illustrates the correctness of the principle I have followed in less certain cases. These things do not originate in the days of charters and Acts of Parliament, and we see here an old custom passing away into oblivion. There can be no doubt, I think, that it represents the old punishment by drowning, an undoubted Teutonic and Scandinavian custom.[3]

There are other modes of punishment in London

[1] See Stow, *Survey of London*, Thoms' edit. 25.

[2] Cf. Riley, *Liber Cust.* (Introduction), lxxxiii.-lxxxiv; *Chronicles of the Mayors and Sheriffs of London*, 97.

[3] See Hampson, *Origines Patriciæ*, 104-105; Grimm, *Deutsche Rechtsalterthümer*, 696-699.

which take us back to the tribal life of our Teutonic ancestors. In the *Chronicle of the Mayors and Sheriffs of London* we read of the bakers, "whose bread did not weigh according to the assay of the city, not being placed in the pillory, as they used to be, but at the will of the Justiciar and Earl exalted in the tumbril, against the ancient usage of the city and all the realm" (p. 43). There were two pillories in London; one stood in Cheapside, and in 1269 we read, in the above-named *Chronicle* (p. 127), it was out of repair.

A curious legal custom is mentioned by Aubrey as still obtaining in London during his day, he having observed one instance. If an unmarried man was capitally condemned, he was pardoned if a woman begged for his release, upon condition that he married her.[1] This is old Teutonic law, and the marriage dower being given at the church door[2] is also traceable to the same source.

Now the special point I wish to urge about these items of forgotten London custom is that they do not exist in any of the recognised collections of city law. They have never been codified, never been able to lift themselves beyond the position of municipal usage. I have collected them from all sorts of places, and have had to piece them together in a kind of patchwork, with no chronological basis of connection between them. Archæologically they present us with a fair field of observation, because they belong to one era of archaic society, but before the tribune

[1] Aubrey, *Remaines of Gentilisme and Judaisme*, 126.
[2] *Close Rolls*, 3 *Edward I.*, Calendar, 487.

of historical succession they have been found wanting; and, I think, we may look for the explanation in the incomplete fashion in which the Saxons had acquired London. They entered it, but they did not conquer it. They governed it, but they did not dictate the methods. They introduced their own customs for their own people; but they left the laws of the Roman landowners to those who had always been governed by them. Theirs was a personal not a local law, the outcome of their tribal polity in contrast to the imperial polity of Rome.[1] In this way we account for the position of the two sets of custom and law; the Saxon customs always custom and not law, the Roman law always authoritative and not merely customary; the Saxon customs fighting for recognition, the Roman law fighting for supremacy; the Saxons establishing their open-air folkmoot at St Paul's, the Roman landowners maintaining their smaller but more powerful council in their council chamber or their Guildhall. The whole of the facts and conditions are remarkable, and the only key which seems to me to be capable of unlocking the hidden story is that we have here the true battle-ground of Roman and Saxon in London. I do not, of course, say that we have here actually Roman as opposed to actually Saxon. The Roman had no doubt long been absorbed, but he left successors to Roman ways and policy, of Saxon, or Celtic, or other blood, and these successors fought for the system which they preferred to live under as

[1] Cf. Kemble, *Saxons in England*, i. 190; Palgrave, *Hist. Eng. Com.* i. 550.

strongly as they would have done if they had been inheritors of it from a long line of ancestors.

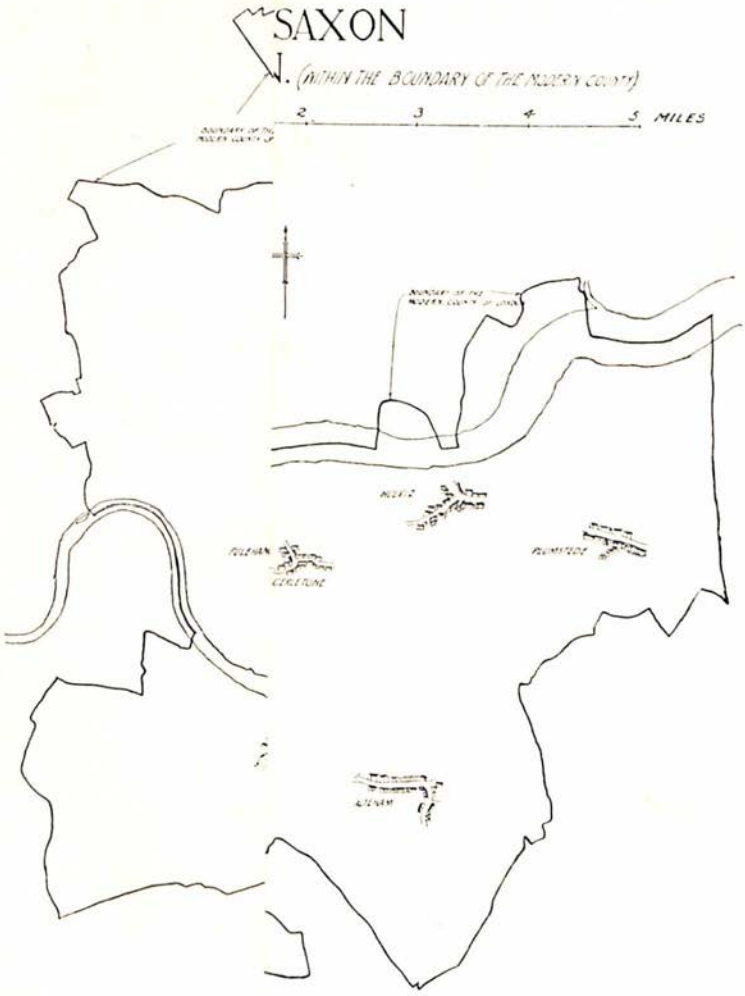
These facts show us London under a new aspect altogether—an unconquered London, but no longer a Roman London; a London governed by the new English and Danish monarchs of Britain, changing its life to suit the new order of things, but keeping up so much of its old life as would make it still a power in the land; a London standing gallantly by Æthelstan, Ælfred, and Eadmund, and even Æthelred; accepting Cnut as it had accepted former overlords because the rest of the land had so decided. In 994 the *Chronicle* says:

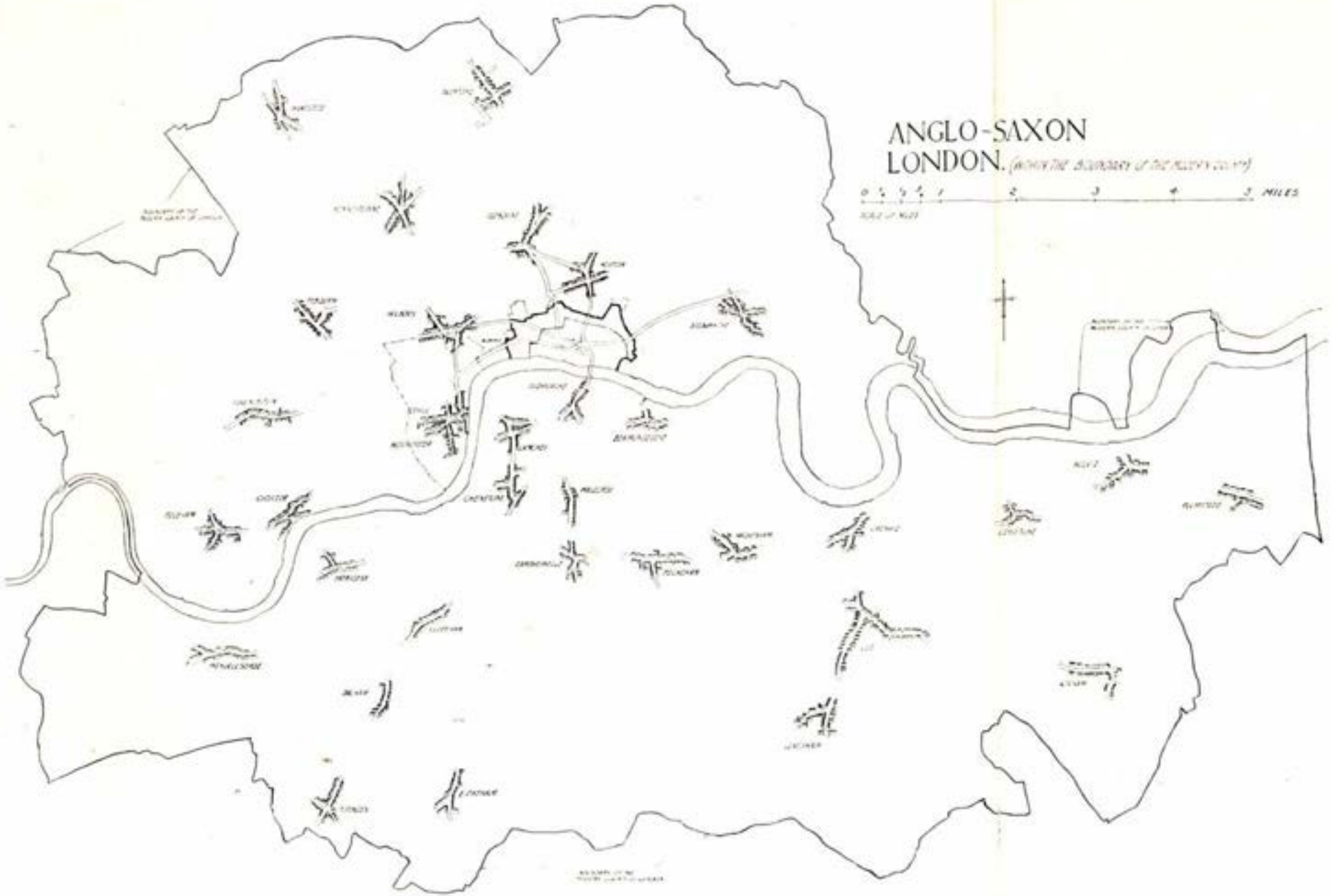
"came Olave and Sweyn to London with 94 ships; and they then continued fighting stoutly against the city, and would also have set fire to it, but they there sustained more harm and evil than they ever supposed that any citizens would be able to do unto them."

It was ever so. A Roman city, at last clothed with an English dress, but still governed as Roman London was governed by an outside sovereignty—a city not yet quite fused with the state.

III

It is clear then that the London of the Saxon period was a Roman city with a difference, and the difference was due to the settlement of the Saxons all round London. My next point is to ascertain some of the most important features of this settlement, as it may be read into the history of London. The


SAXON
(WITHIN THE BOUNDARY OF THE NORFOLK COUNTY)
2
3
4
5 MILES
BOUNDARY OF THE NORFOLK COUNTY OF
BOUNDARY OF THE NORFOLK COUNTY OF SUFFOLK
NORWICH
FILEHAM
CASTLE ACRE
RUNHEAD
ATTLEBOROUGH
DISHAM


ANGLO-SAXON
LONDON.
MILES

first important feature rests upon the fact that their primitive institutions, their principle of settlement, not only did not include the area of the city, but, strangely enough, deliberately excluded it. It is an important point to establish this, and it can be done through the agency of the manors surrounding London, manors being the political successors of the older tribal settlements.

"There were manors everywhere," are Mr Seebohm's significant words,[1] but they stopped short at the boundary of London. They existed all round London, but they never extended beyond the city boundary into the city territory; they never extended from the country into the city. Up to the city boundary, Middlesex on the west, north, and east, Kent and Surrey on the south, were, like the rest of the country, parcelled out into manors. But nowhere do we find a trace of the manor in the constitution of early London. This is not the case in other municipal towns. I cannot answer for each case, but I know that in very many of the municipal towns of England the element of the manor enters into the municipal constitution, and helps to form it upon the English basis. In London it is never so. Even the Bishop of London's lands, and the lands belonging to the Cathedral of St Paul's, begin outside the boundary of the city and stretch into Surrey in one long string of manors, while small manors of late creation, like that of Paris Garden in Southwark and the Savoy in the Strand, testify to the principle of manorialisation going on, even in the parts most

[1] *Village Community*, 82.

nearly connected with the city. All round London, in point of fact, edging London in, are manors of the ordinary English type.

Look at the long narrow parishes, Camberwell and Lambeth on the south, stretching from the river to the hills; Fulham[1] and Kensington on the west, stretching from the river to the hills; Paddington and Islington, long narrow parishes on the north, stretching from the Roman road to the hills of the north. These are typical English settlements, the like of which are to be found all over England in so uniform a type as to have attracted the notice both of the economist and the geologist.[2] And then in details all round London a few years ago were lammas lands, lands enclosed from spring time to 1st August for pasture, and then thrown open for all the inhabitants. These lammas lands are pure relics of the Teutonic village system, and in modern days at Hackney, Fulham and elsewhere, the ancient rights have been bought up and converted into people's lands for ever. One has only to consult old London maps to discover easily in various parts the long acre-strips of ancient arable lands which distinguished London before the building of the houses and which determine the position and site of houses to this day. Thus at Putney all the houses facing the river are so built that the ancient strips upon which they are built are still plainly discoverable, two or three houses being built in one group, and

[1] Fulham originally included Hammersmith, which as a separate parish only dates from the seventeenth century.

[2] See Mr Topley's valuable article in *Journ. Anthrop. Inst.* iii. 32; Marshall, *Rural Economy of the Southern Counties*, ii. 307-308.

then two or three in another group, a little in advance or a little behind the first group. Wherever indeed these curious zigzag lines of frontages exist, we may be sure that in some form or another we are noting the ancient acre-strips of a Teutonic village community. They appear in Park Lane, and add in my opinion to the picturesqueness of that most picturesque part of modern London. These lines of frontage were never drawn by an architect full of a building scheme for a single owner, such as we get in Regent Street, Bedfordbury, and other estates; they were drawn by separate owners of ancient acre-strips who had come to possess in independent ownership acre-strips that were once yearly allotted, and who built their modern property upon the ancient cultivating sites of Teutonic settlements.[1]

There is nothing of this kind within the city boundaries. It is true that in the thirteenth century we have manorial jurisdictions set up in the city, but they are separated off from the manorial system of extra London by long periods of history, and by an absolute difference in kind. They agree but in name. They are not manors economically independent, occupying stretches of territory and containing cultivators with ancient rights. They are simply baronial jurisdictions of a special kind, which

[1] The student should consult Horwood's *Plan of London*, 1792, to see the acre-strips marked in Bethnal Green, Old Kent Road, and other districts, *The New Map of the Country round London*, 1796, for the "Battersea common field" and for acre-strips at Lambeth, Peckham, and elsewhere. Perhaps the most vivid indication of the communal acre-strips is that which the contemporary chronicler placed before the dying eyes of Edward the Confessor at Westminster, and which Mr Seebohm so acutely explains. (Seebohm, *Village Community*, 99.)

got to be called manors, because the term manor was the mediæval ideal to which the lords of jurisdictions looked; and their extents do not run over both intramural and extramural lands, but are entirely confined within the walls.[1]

The distinction between the so-called manors of the city, and the real manors outside the city is

[1] Mr Maitland succinctly sums up the conception of a manor by the ordinary man of the thirteenth century, "when men spoke of a manor they thought primarily of a single group of tenants who worked in common at their ploughings and their reapings." (*Select Pleas of Manor Rolls*, xl.) It has often been stated that the manorial system was extant in London. I agree it was to some extent created by the Norman grants of sokes, and on this I shall presently have to say something further, but the manorial system did not form the basis of London organisation. It has too been said that the title "Lord Mayor" comes from his lordship of the manors. If so, it comes from the manors he held in the country for the city, and it is late. Thus Mr St. John Hope communicated to the *Times*, 10th November 1901, some extracts from the minute books of the Court of Aldermen and the Court of Common Council, from which it seems that down to about 1540 the Chief Magistrate was invariably styled Mayor—*e.g.*, 1512, "late Mayres of this Citee"; 1518, "the mayor and sheryffes"; 1522, "Mundy nowe mayor," "the Mayer of this Citie"; 1524, "the mayer," "the olde Mayor"; 1525, "Aleyn electe mayre"; 1537, "the newe Mayre elect." There are, however, instances as early as 1519 where he is referred to as "my lorde mayr," but seemingly in the same way as we speak of "my lord bishop" or "my lord the King," for the same entry that refers to him as "my lorde mayr' nowe beyng" continues "as well as all other mayres his successours." After 1540 the use of the term "Lord Mayor" becomes general, *e.g.*, 1542, "every lorde mayers house"; 1545, "the lorde mayers of the same Cytie"; 1546, "the lorde Mayor," etc. The old form, however, is still to be found occasionally, as in the will of Sir John Alen, dated 1545:

"I will that the Lorde Mayre of London for the tyme being shalhave my Collor of SS to use and occupie yerely at and uppon principall and festevall dayes, and the same to remayne to hym and his successours mayres for the same effecte. So that the same mayre and his successours, etc. . . . And I wille that the saide maire and chamber, etc."

On the question of tenure in London, see Norton, *History and Franchises of the City of London*, 67-71.

emphasized, I think, by the omission of London from the Domesday survey. There is a blank space of considerable length at the head of the survey at Middlesex.[1] Now for this survey the unit of enquiry is everywhere the manor, and the condition of the burghs is sometimes brought within this formula, it appears to me, rather forcefully. The omission of London from the Domesday record is generally accounted for as an accident, perhaps caused by loss of the precious manuscript.[2] What if it were something more than this—more than this in two directions? If London was sufficiently powerful to say nay to William's commissioners, or sufficiently rich to buy immunity from their enquiry, it need not surprise us. If London was sufficiently different from every other city in the kingdom, to make it impossible for the formula, *quot villani, quot cotarii, quot servi*,[3] to be asked of its economical conditions, it would not surprise any one who has followed the arguments advanced in these pages. Either of these conditions would account for the omission of London from Domesday; both of them combined would account for the omission, and it appears to me they supply a more substantial reason, than one depending upon mere palæographical conditions. I think the omission of London from Domesday not an accident but a necessity.[4]

[1] Ballard, *The Domesday Boroughs*, 9.

[2] The omissions from Domesday are London, Winchester, Bristol, Tamworth, Hastings, Romney, and Hythe.

[3] The Domesday formula is discussed by Bishop Stubbs in *Constitutional History*, i. 385-387.

[4] Mr Round is inclined to this view, for he says of the omission of Winchester that it is perhaps "as in the case of London a tribute to the

Not one of the manors outside London penetrates over the London boundary into the city. The manorial boundaries, extra London, are also the city boundaries. Whatever may be called manors in the city are separated by this boundary into a different class. There may be jurisdictions in London which call themselves manors, but they are not as the extra-London manors. These are of the ordinary type of English manor with their courts, their common fields, their lammas lands, their pastures, and their woods. But the so-called city manors have none of these things. This is a significant fact, and it must mean something of importance. If London was able to keep out the manorial organisation it was because it had another organisation opposed to the manor in principle, and powerful enough to hold its own. Already we have seen that the lands of London were not held upon a definite system capable of being traced to Anglo-Saxon origin, and we shall see later on what kind of manor there was nominally in London, and how it arose. What we have to note now is the fact that manorial organisation formed no part of London government, and that outside London—immediately outside on its boundaries—it was the only organisation for local government. I think in

greatness of its position." (*Victoria County History of Hampshire*, i. 432.) London is mentioned incidentally in Domesday, for thirteen burgesses of London are recorded to have belonged to the manor of Bermondsey, and nineteen belonged to the church of Lambeth. (Ellis, *Introduction to Domesday*, ii. 205.) Burghers of London are attached to Barestead and Bletchingley in Surrey, to Waltham and Thurrock in Essex, and twenty-eight houses in London belonged to the manor of Barking. (Maitland, *Domesday and Beyond*, 114, 180; Ballard, *The Domesday Boroughs*, 18.)

this we possess further testimony to the special position held by London in the Anglo-Saxon constitution. We have in this important conclusion brought the evidence of Roman London into line with the evidence as to the Anglo-Saxon settlement round London. It is confirmatory of both lines of argument that when they are brought into touch they run parallel to each other, and not across each other; they tell the same story from their different standpoints. In so complicated a matter, dealing with so much detail, and having to rely upon a mass of imperfect information from such different sources, it is an extremely important result to have reached parallel conclusions from two opposite standpoints.

The Anglo-Saxon tribal system in its latest form of the English manor, practically leaving London hemmed in by it but not making it part of it, will be better understood when we have examined a more primitive form of the tribal system attaching to Anglo-Saxon kingship, which, as it happens, is well illustrated from London evidence. We have seen Anglo-Saxon kings assume titles and adopt formularies which can be carried back to Roman origins, and which owe their existence to the fact that Anglo-Saxon kings in addition to being kings of the Anglo-Saxon tribes, were also sovereign lords of Celtic Britons and of British cities. Fortunately their Roman titles and formularies did not affect their English kingship, which was expressed in terms of tribal polity, was an elective not a hereditary position, and was inaugurated by traditional ceremonial rites of the tribe. All over the kingdom are to be found

remains or evidence of the ancient places of assembly, not held in the great cities left by the Romans, but in the open air by the side of a sacred stream, under a sacred oak, at a great stone monolith, on a mound raised for the purpose. It is really remarkable that these tribal relics should have remained so long in our midst, and there is one very important symbol of Anglo-Saxon tribal sovereignty known to most Londoners, namely, the King's Stone in Surrey, on the banks of the Thames, round which has grown up the modern town of Kingston. The site of this great stone is marked by a monument after modern taste and style, but the rude unsculptured stone upon which the Saxon kings were crowned formerly stood against the old Town Hall, in the market-place, until it was most sacrilegiously removed in 1837.[1]

Kingston, in a charter of King Eadred, of the year 946, is termed "the royal township where consecration is accustomed to be performed."[2] Eadward the Elder was crowned there in 900,[3] Æthelstan in 925,[4] Eadmund in 940,[5] Eadred in 946,[6] Eadwin in 955,[7] Eadward the Martyr in 975,[8] and Æthelred in 978.[9] No doubt the authorities for these cases are

[1] Brayley (*History of Surrey*, iii. 5); *Gent. Mag.* 1850, iii. 380-381, records the removal.

[2] Cyngestun ubi consecratio peracta est. (Kemble, *Cod. Dip.* ii. 268, No. ccccxi.)

[3] Ralph de Diceto, *Chron.* i. 452.

[4] Florence of Worcester, *Chron.* i. 130.

[5] Ralph de Diceto, *Chron.* i. 454. [6] Kemble, *Cod. Dip.* ii. 268.

[7] Florence of Worcester, *Chron.* i. 136; Roger of Wendover, *Flores Hist.* i. 404.

[8] Ralph de Diceto, *Chron.* i. 458.

[9] Roger of Wendover, *Flores Hist.* i. 421.

not all of equal value, but there is no doubt whatever of the general fact of Kingston being a coronation stone of the Saxon kings.[1]

These facts show that within 15 miles of London the ancient tribal methods of electing Anglo-Saxon kings were continued to the latest times of the Anglo-Saxon period. Of itself this would be a significant fact, but it becomes still more so when it is found that the rite at Kingston was repeated almost under the walls of London. Kingston is valuable to us to show from undoubted early evidence that the kings of the Anglo-Saxon tribes were elected and that the rite took place in the open air upon a sacred stone. That another election place existed nearer London is only a phase of tribal kingship which might be expected to occur, and although we cannot fix upon it with the historical certainty that Kingston possesses, we can, with the aid of the Kingston example before us, trace out its former existence and the causes of its disappearance in the primitive form. This investigation will bring us very closely indeed into touch with that phase of the history of London which is now before us.

Mr Kemble has compiled a useful record of many of the meeting-places of the Anglo-Saxon witenagemot.[2] One of the most celebrated of these places was "Clofesho," and considerable discussion has taken place as to its exact locality. Bishop Stubbs, in suggesting the reasons which may have led to the

[1] A useful summary of the whole evidence is given in *Gent. Mag.* 1851, ii. 125-130.

[2] *Saxons in England*, ii. 241-261.

ultimate distinction of Westminster as the meeting-place of the national assembly, a distinction which dates not from William the Norman, but from Edward the Confessor, points out the gradual growth of national sentiment which typifies the continuity of national life, and adds this important suggestion:

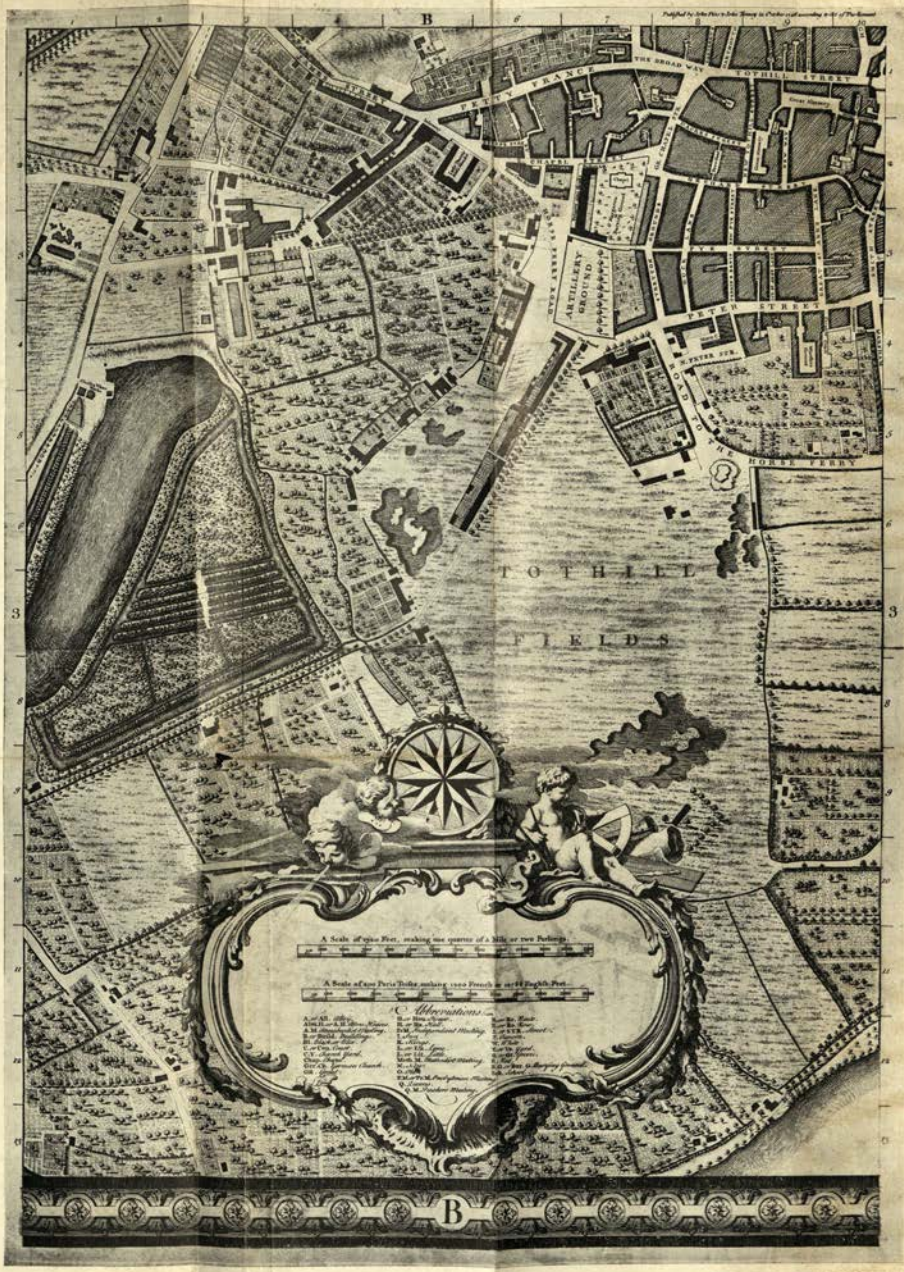
"It is possible that under the new name of Westminster were hidden some of the traditions of the old English places of councils, of Chelsea, or even of the lost Clovesho."[1]

I should like to substitute for the qualification of "possible" that of "probable." Assemblies were held at Clovesho, in A.D. 742, 747, 803, 804, 824, and 825, and at Chelsea (Cealchyð) in A.D. 799, 815 and 996. Mr Kemble decides Clovesho to be in Gloucester,[2] but it is singular that the document he specially relies upon for evidence of this relates to a trial for lands in Gloucestershire, wherein "the whole business appertained to Westminster." The council is that of 804, and was held "in loco, qui dicitur Clofeshoh, cum libris et ruris, id est, æt Westmynster."[3] These councils were held during the supremacy of Mercia, and though we cannot go any further in the identification of Clovesho, the archaic place of meeting, with Westminster, the historical place of meeting, it is worth while drawing attention to the curious facts which to some extent connect the two places.

[1] *Constitutional History of England*, iii. 382. Cf. Plummer, *Beda*, ii. 214.

[2] *Saxons in England*, ii. 191, note.

[3] Mr W. de Gray Birch says of this, "probably Westbury, co. Gloucester"; but there is no evidence beyond conjecture. See *Cartularium Saxonicum*, 438.



Tothill Fields.

They form the preface to important facts in the history of Westminster itself. The first of these is the existence of a "Tothill" there. It survives now in the name *Tothill Street.* Mr Loftie describes it as a slight eminence rising in the midst of a wilderness of marsh, and upon which the old road, the Watling Street, ran to the water's edge.[1] It may be a point worth bearing in mind that Tothill fields were used as the place for judicial combats, the last example occurring in the reign of Elizabeth.[2] This fact

[1] *History of London*, ii. 34. The significance of this name as indicating an early settlement, has been discussed in *Notes and Queries*, 2nd ser. vol. viii. *et seq.*, and in Mr Streatfeild's *Lincolnshire and the Danes*, 110; and there is some considerable warrant for supposing it a sign of Danish influence.

[2] The Elizabethan case is extremely curious and may well be quoted here. It was in Trinity term, 13 Eliz., Lowe and Kyme against Paramour; "One Chevin seised of the land in demand in the island of Hartey, in the county of Kent, and for the assurance levied a fine to him; in conusance of which fine was taken before Sir Robert Brook Chief-Justice of the Bench. And because he doubted of the age of Chevin, he took certain examinations, etc., by which he appeared to be of full age. And in the same term that the fine was levied, Chevin brought his writ of error, and assigned the error in B. R. on his nonage; and upon that had a scire facias to the sheriff of Kent against Paramour the conusee and terre-tenant, upon which a nihil habet nec est inventus, etc., was returned; whereupon issued an alias scire facias; upon which the sheriff returned another nihil, etc., and upon this return the court proceeded upon the examination of the error: and as well by the inspection of the person of the plaintiff as by the testimony of four lawful and trusty men the court adjudged him within age. And in the next term the fine was reversed for this cause. And afterwards at the full age of Chevin he sold the land to Lowe and Kyme; and they by feoffment of Chevin were put into possession; but Paramour would not quit, but continued his possession. And by suit in the Chancery commenced by Paramour, they went to issue upon the age of Chevin, etc. And the age of 21 years was proved by witnesses at the time of the fine levied. Afterwards Lowe and Kyme brought a writ of entry in the nature of assise against Paramour; judgment was given that the plaintiffs take nothing by their writ, etc., whereby they were barred and brought attaint against Paramour

distinctly points back to Scandinavian influences, for the holmgang is well known to students of the Sagas.

and the petit jury. Grand jury affirmed the first verdict and it was given in evidence, that notwithstanding the nonage the land was gavelkind, and might be sold by the owner at the age of 16 years, so the first verdict was affirmed and the demandents barred in the attaint. Upon this the demandents brought a writ of right, and counted upon their own seisin in the time of Philip and Mary (?). Paramour chose trial by battle and his champion was one George Thorne; and the demandents e contra and their champion was one Henry Nailer a master of defence. The Court awarded the battle, and the champions were sworn to perform the battle at Tothill in Westminster on the Monday next after the morrow of the Trinity which was the first day after the utas of the Term; at which day a list was made in an even and level piece of ground, set out square, sixty feet each side due east west north and south, and a place or seat for the judges of the Bench was made without and above the lists, and covered with the furniture of the same Bench in Westminster Hall, and a bar made there for the serjeants at law. And about the tenth hour of the same day three Justices of the Bench, Dyer, Weston and Harper, Welshe being absent on account of sickness, repaired to the place in their robes of scarlet with the appurtenances and coifs; and the serjeants also. And there public proclamation being three times made with an oyes, the demandents first were solemnly called and did not come. After which the mainpernors of the champion were called, to produce the champion of the demandents first, who came into the place apparelled in red sandals over armour of leather, bare-legged from the knee downward, and bareheaded, and bare arms to the elbow, being brought in by the hand of a knight, namely Sir Jerome Bowes, who carried a red baston of an ell long tipped with horn, and a yeoman carrying a target made of double leather; and they were brought in at the north side of the lists, and went about the side of the lists until the middest of the lists, and then came towards the bar before the justices with three solemn congies, and there was he made to stand at the fourth side of the place, being the right side of the court; and after that, the other champion was brought in like manner at the south side of the lists, with like congies, etc., by the hands of Sir Henry Cheney, Knight, etc., and was set on the north side of the bar; and two serjeants being of counsel of each party in the midst between them: this done the demandent was solemnly called again, and appeared not, but made default; upon which default Barham, serjeant for the tenant, prayed the Court to record the nonsuit; which was done. And then Dyer, Chief Justice reciting the writ, count and issue, joined upon battle, and the oath

We proceed from this to the second point, showing the connection of Westminster with the Danes. They were at large in Middlesex, and London Wall kept them out of the city, but there was nothing to withstand them on Thorney.[1] Professor Worsaae has described the tràces of influence which the Danes have left upon the topography of London,[2] but if I mistake not, he has left out of consideration the most lasting of their memorials, namely, one of the most important duties of the old assemblies, the election of the monarch. In Denmark the ceremony took a special form. The election of a king of Denmark was in ancient times commonly held in this solemn manner: As many of the nobles as were senators, and had power to give their votes, agreed upon some convenient place in the fields, where, seating themselves in a circle upon so many great stones, they gave their votes. This done, they placed their newly-elected monarch upon a stone higher than the rest, either in the middle of the circle or at some small distance at one side, and saluted him king.[3] Now I am going to suggest that a *convenient place in the fields* was found at Thorney,

of the champions to perform it, and the fixing of the day and place, gave final judgment against the demandents, and that the tenant should hold the land to him and his heirs for ever, quit of the said demandents and their heirs for ever, and the demandents and their pledges to prosecute, in the Queen's mercy, etc. And then solemn proclamation was made, that the champions and all others there present (who were by estimation above four thousand persons) should depart, every man in the peace of God and the Queen. And they did so, cum magno clamore 'Vivat Regina.'" (*Dyer's Reports*, 301*b*-302*a*.)

[1] Loftie, *History of London*, ii. 35.

[2] *Account of Danes and Norwegians in England*, cap. iii.

[3] See my *Primitive Folkmoots*, 33 *et seq*.

and that by a series of circumstances, not quite clear by historical documents, though sufficiently so by archæological sequence, it has been continued at Westminster, which has also proved a convenient meeting-place for the historical parliaments of the realm.

It is necessary then to enquire whether, having in view the undoubted Danish influence at Westminster, having also in view the old mode of electing the monarch in Denmark, there is anything in the history of Westminster which may fairly be considered a survival of these early Danish times, and whether we have not thereby gained some information about the folkmoot at Westminster? Stow says:

"At the upper end of Westminster Hall was a long marble stone of twelve feet in length, and three feet in breadth; and there also was a marble chair where the kings of England formerly sat at their coronation dinners, and at other solemn times the Lord Chancellor. This was afterwards built over by the two Courts of Chancery and King's Bench."

Here we have, I think, the stone chair upon which, in old days, the kings were elected, and which, being covered by Westminster Hall, has been lost sight of by historians. Of the stone itself we have not very much information. In the first place, let us note that it was not usual to have stone seats in great halls, as it is important to know that the Westminster stone was there not as a part of the ordinary furniture of the king's palace, but as something which had been handed down with the place and its traditions, and had, therefore, held its own against

the more general practice of the age. Turner, in his *Domestic Architecture of England*, points out the extremely rude construction of the seats in the royal castles, and quotes items from the accounts in the time of Richard I., of payments to carpenters for sawing trunks of trees, and shaping the planks into tables.[1]

Some remarkable legal customs were enacted at this stone in Westminster Hall, all of which prove it to have been the centre of a traditional history which had become engrafted on to the legal formulæ of later days. Mr Sergeant Pulling, in his *History of the Coif*, says that

"at this marble stone divers matters of importance used to be transacted, the swearing-in of high officers, etc. Henry de Cliff was so sworn as Master of the Rolls in 1325" (p. 84).

From Brayley and Britton's *Ancient Palace of Westminster* (p. 96), we learn that the Placita Roll of 34 Edward I. records that William de Brewes, having insulted Roger de Huxham, the justice appointed to

[1] See vol. i. 98, where there is an engraving of the back of the coronation chair. It will also be curious to note that as time went on the marble chair at Westminster became covered with tapestries and such like material. At the coronation of Edward III. the ornaments for the royal seat were as follows:

Item, for ornaments for the King's seat; viz., cloth of gold and Turkey silk, 4 cloths containing 30¾ ells.

The same day, for the back of the same, to preserve it from the humidity of the wall, 24 ells of linen.

The same day, for a veil, on the side of the King's seat, cloth of gold on linen, 12 cloths.

The same day, to place under the King sitting, 2 pieces of velvet containing 14 ells.

The same day, cushions of samite for the same, 3 cushions.—This is taken from the rolls preserved in the Augmentation Office relating to the coronation of Edward III., quoted in Brayley and Britton's *Ancient Palace of Westminster*, 145.

determine a dispute between him and his wife, and being arraigned before the king, it

"was decreed by the King and Council that the aforesaid William should proceed unattired, bareheaded, and holding a torch in his hand, from the King's Bench in Westminster Hall, during full court, to the Exchequer, and there ask pardon of the aforesaid Roger, and make an apology for his trespass."

A curious print in Brayley's *Londiniana* (i. 209), is called "Westminster Hall in Term Time." It exhibits, on the Western side, the Side Bar, at which certain formal motions were accustomed to be made; and although the practice is now different, the phrase Side Bar motions is still used professionally.

But the most important fact connected with the legal history of Westminster stone is that it gave the name to, and was the original place of sitting for, the Court of King's Bench. Mr Foss, in his paper on the Legal History of Westminster Hall in the volume on *Old London*, 1867, says:

"The magnum Bancum was at the upper end, where the steps now are. Here the Chancellor sat in his marble chair, which was afterwards (*cir.* 1400) covered over by the Courts of Chancery on the right, and King's Bench on the left; these divided the space between them, and were, until a comparatively recent period, mere open platforms raised above the floor of the hall. There is a curious print representing the interior of the hall (*cir.* 1735) and entitled 'Law is a bottomless Pitt,' which shows this arrangement and group of loiterers on the floor of the hall."

Dugdale, in his *Origines Juridiciales* (p. 37), says:

"The place where the Lord Chancellor anciently sate and held his court, was at the upper end of Westminster Hall,

at that long marble table which is theire situate (though now covered with the courts there erected) whereunto are five or six steps of ascent. For in 36 Edward III., when Simon Langham was made Lord Chancellor, he placed himself in the marble chair, wherein the chancellors used to sit, and sealed patents, which marble chair to this day remaineth, being fixt to the wall there over against the middle of that marble table."

The Court of King's Bench was, we know, the court where the king, carrying out one of the oldest functions of English kingship, sat as judge; and in the history of the King's Bench we have a most important link between archaic and historical times. The formula of summons *in banco regis* still is "before the King himself."

Now these facts would of themselves, I venture to think, go far towards establishing my proposition that in the marble chair at Westminster Hall we have one of those ancient stones which marked the site of an assembly in tribal times. But some of the coronation rites enacted at this very stone absolutely carry us back to those ceremonies, which we have noted as incidental to Danish monarchical elections.

Dennis, in his *Key to the Regalia*, says:

"The King being conducted through the Hall is seated in a chair of state, placed on a platform raised on the scite of the Courts of Chancery and King's Bench, the enclosures for which are removed, and on the very spot where his representatives administer justice and decree equity, the sovereign first presents himself to his liege subjects" (p. 9).

This was the custom in late years, but its very significance suggests a more important earlier history.

Dean Stanley says in his *Memorials of Westminster*

"In Westminster itself, by a usage doubtless dating back from a very early period, the Kings, before they passed from the Palace to the Abbey, were lifted to a marble seat, twelve feet long and three feet broad, placed at the upper end of Westminster Hall, and called from this peculiar dignity, 'The King's Bench.'"[1]

But the true source of the information thus so graphically and succinctly put, is Arthur Taylor, in his *Glory of Regality*, 1820, who has collected from the chronicles all that is to be gleaned about the curious connection between the stone bench in Westminster Hall and the coronation ceremonies. From this work we learn that Henry VII. was to come on the morning of his coronation "from his chambre into Westminster Hall where he shall sitt, under clothe of estate, in the marble chaire." Richard III., say Speed and Stow, upon the 25th June went in great pomp into Westminster Hall, and there, in the King's Bench Court, took his seat. *The Chronicle of Croyland*, in recording the same occurrence, says that, "se apud magnam aulam Westmonasterii in cathedram marmoream immisit." Grafton says that the King "came downe out of the white hall into the great hall at Westminster, and went directly to the Kinge's Benche." Hall says that Katharine, Queen of Henry V., after her coronation, was "conveighed into Westminster hal, and ther sat in the throne at the table of marble at the upper end of the hal."

[1] Pp. 49-50. I may refer also to Dart, *Westmonasterium*, i. 56, 62.

Richard II., arriving at the palace from the Tower, entered the hall, and "ad altam mensam marmoream in eadem aula accedens."

We have some evidence, too, that this monarch used the marble chair as his throne on state occasions. In the contest between him and the barons we read that the barons assembled at Westminster with their retainers, and when the king made his appearance, they,

"as soone as they had sight of him, made to him their humble obeisance, and went foorth till they came to the nether-steps going vp to the King's seat of state, where they made their second obeisance." [1]

Now these facts concerning the English coronation and regal stone-chair at Westminster receive additional light, if I mistake not, from the facts connected with the bringing of the coronation stone of Scone from Scotland by Edward I. Why should Edward I. have taken the trouble to secure it and bring it to London? It is answered that he wished to destroy the Scottish kingdom, this stone being held in great reverence by the Scots, and its loss foretelling the downfall of their monarchy.

Thus Hemingford says:

"In returning by Scone, [the king] ordered that stone in which, as has been said, the kings of the Scots were wont to be placed at their coronation, to be taken and carried to London, as a sign that the kingdom had been conquered and resigned [in signum regni conquesti et resignati]." [2]

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[1] See Brayley and Britton, *Ancient Palace of Westminster*, 271, quoting Holinshed, ii. 787.

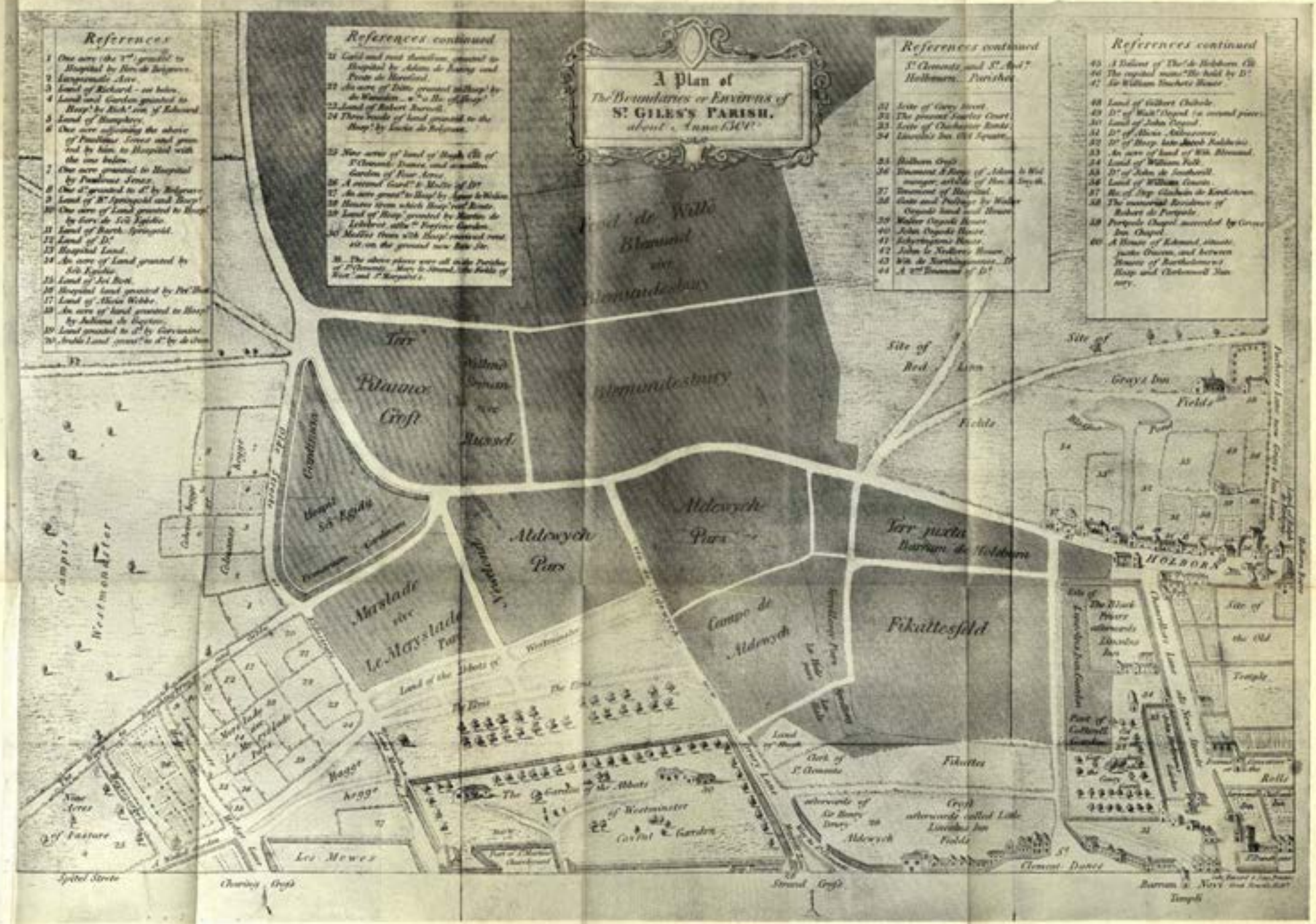
[2] *Chron.*, quoted by Skene, *Coronation Stone*, ii.

And another chronicler, William Rishanger, records that Edward I., on his return from the north,

> "passed by the abbey of Scone, where having taken away the stone which the kings of Scotland were wont at the time of their coronation to use for a throne, carried it to Westminster, directing it to be made the chair of the priest celebrant" [celebrantium cathedram sacerdotum]. (*Chron.* 163.)

Accordingly, when the stone arrived in London it was enclosed in a wooden framework in the form of a chair, and has thus remained to the present day. In the treaty with Scotland, under Edward II., made at Northampton, one of the stipulations was that the ancient coronation stone was to be given up, but we are told by the *Chronicle of Lanercost* (261), "the people of London would by no means whatever allow it to depart from themselves."

These details, minute as they are, detached as they are, make up together all that is necessary to show that Westminster was a tribal meeting-place, and had, like Kingston, its King's stone. It is clear that whatever was the object of bringing the Scone stone to England it was not that it should be used as a coronation stone. Indeed there was no reason why the English people of the thirteenth century should suddenly desire to adopt the tribal practices and beliefs of Scotsmen, and the only way to account satisfactorily for the use in much later times of the Scone stone in the coronation ceremony of England is the discovery of a counterpart to it in the English ceremony. That counterpart was the


A Plan of
The Boundaries or Environs of
St GILES's PARISH,
about Anno 1560
References
References continued
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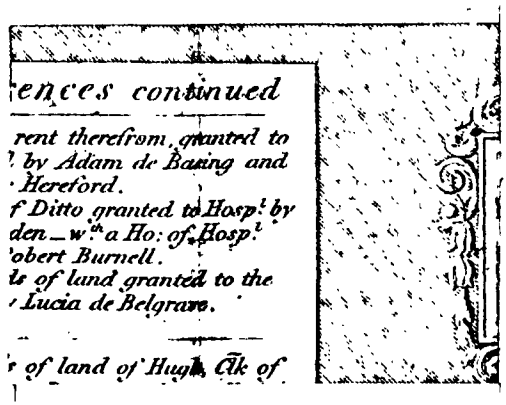
Ter Pitancer Croft
Blemundesbury
Aldewych Furs
Aldewych Furs
Marlade
Le Marylade Furs
Campo de Aldewych
Fikuttesfeld
Ter juxta Barram de Holeborn
Grays Inn Fields
Site of Red Lion
HOLBORN
Site of the Old Temple
Site of The Black Friers afterwards Lincolns Inn
Fikuttes
Croft afterwards called Little Lincolns Inn Fields
Les Mewes
Nine Acres of Pasture
The Garden of the Abbots of Westminster
Covent Garden
Land of the Abbots of
Land of the Bishop of
Clerk of St Gemaine
Strand Croft
Spittel Strote
Chauncy Croft
Clement Danes
Temple
Rolls

ALDWYCH.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King's stone at Westminster; and when the later legal use to which this was put began first to obscure and then to displace the earlier associations with the coronation, it was easy for Englishmen to transfer to the Scone stone all that they had previously understood of the Westminster stone. This is what I claim for the evidence adduced as to the origin of the King's Bench at Westminster.

Westminster is in this way separated from London in a marked and special degree, and it will be found on further examination that there is another instance of this separation, which will also show the keeping up of the tribal practices of the Danes by the people living outside the walls of London. This is the famous Danish settlement on the western side of the city. We approach the history of this settlement through the significant name of the church and parish of St Clement Danes, which has kept alive the tradition that the district on this side of the city was in some way or another connected with the Danish conquerors of our island in the tenth and eleventh centuries. When the Danes overran this country they formed settlements in many districts, and that one of these settlements should have been just outside the walls of London is not only of great significance by itself, but it has, I think, the added significance of showing the difference between the city organisation and that of the country outside the city.

The first important facts which bear upon the subject are the entries in the chronicles relating to

Harold, the son of Cnut, who succeeded to the kingship in 1036. William of Malmesbury says, "he was elected by the Danes and the citizens of London, who from long intercourse with these barbarians had almost entirely adopted their customs,"[1] and then in 1040 we have the records of his burial. The entry in the chronicle of William of Malmesbury is as follows, after describing the disinterring of the body by Hardicnut: "*id a quodam piscatore exceptum sagena, in cœmiterio Danorum Londoniæ tumulatur.*" Florence of Worcester says that Hardicnut sent to London Ælfric, Archbishop of York, Earl Godwin, Stor the master of the household, Edric the dispenser, Thrond captain of his guards, and other men of dignity, and ordered them to dig up Harold's body, and throw it into a ditch, and that when this was done they should take it out and throw it into the river Thames. After this was done the body "*ad Danos allatum sub festinatione, in cœmeterio quod habuerunt Londoniæ sepultum est ab ipsis cum honore.*" Ralph de Diceto says more specifically: "*brevi autem post a quodam piscatore ad Danos allatum est, et in cimiterio quod habuerunt Lundoniæ sepultum est apud Sanctum Clementem.*"

The question is—what do these entries exactly mean? have they any significance beyond the fact which they record? We must go a little further into the history of the Danish conquest for our answer, and the first point to note is that the object of the Danes was to settle after conquest. It was not mere piracy and plunder. This is clearly shown

[1] Lib. ii. cap. xii.

by a passage from Roger of Wendover, sub anno 896, as follows:

"Landing at the mouth of the river (Luie), not far from the city of London, they drew their ships on shore and took to plunder and rapine, on hearing of which the citizens of London taking to their aid the people of the neighbouring parts (*comprovincialibus populis*) came to the aforesaid place when they found that the enemy had now formed a settlement."

The text of the Rolls edition calls this river Luie, a reading not always given, but one which undoubtedly suggests the modern Lea, while the whole passage indicates clearly enough the object of the assault upon London. A boat of this period and of the type known to have belonged to the Danes was recently discovered by the East London Water Company in their works on the Lea, and this represents the last relic perhaps of the struggle of London against the Danish conqueror.

Apart from these points it may perhaps be conceded, at all events for the moment, that there is enough chronicle evidence to warrant the conclusion that the Danes and the Londoners were two separate communities, that they did not form one city-community, and that a district near to St Clement Danes was the well-known burial-place of the Danish king.[1] The next point is to enquire whether these two facts can be brought together, and in particular whether anything more than a cemetery was situated there. The entries in their very baldness help us

[1] It is interesting to find among the runic monuments one recording that three Danes "lie in Luntunum." (*Archæologia*, xliii. 116.)

materially, for they allude to the burial-place as belonging to the countrymen of the king, a fit and proper place for his interment, and one which his countrymen desired as a right rather than one which Londoners had determined upon in order to get rid of the dead king's body. This would mean that the Danes were sufficiently distinct from Londoners not only to have views of their own but to give expression to them, and that therefore they were living in this district beyond the walls of London in such political form as to give a corporate character to their life. If this view is confirmed by other facts any difficulty at this initial stage is swept away, and it therefore becomes necessary to examine into Danish settlements to see whether there is such confirmation. Dr Worsaae, the distinguished Danish antiquary, held this view, as the following quotation will prove:

"It has been supposed that this church was called after the Danes because so many Danes have been buried in it; but as it is situated close by the Thames, and must originally have lain outside the city walls, in the western suburbs, it is certainly put beyond all doubt that the Danish merchants and mariners who were established in or near London had here a place of their own in which they dwelt together as fellow-countrymen. Here it should also be remarked that this church, like others in commercial towns, as for instance at Aarhuus in Jutland, at Trondhjem in Norway, was consecrated to St Clement, who was especially the seaman's patron saint."[1]

Now the Danes living outside the walls of London in a district specially theirs, would live in Danish

[1] Worsaae, *Danes and Norwegians in England*, 17.

PLAN *of* WESTMINSTER.

To show the eastern boundary as fixed by the decretal of 1222, leaving an area between the City and Westminster excluded from both jurisdictions. This is the area referred to in the description of the Aldwych customs. The plan is copied from *Archæologia*, vol. xxvi,

fashion, would follow Danish customs, would conform to Danish laws and institutions. Can we then ascertain what these might be? First of all there is some evidence from the Sagas. Mr Lethaby has quoted from the *Jomsvikinga Saga* a passage which records that Sweyn put Thingamannalid in two places, the one in Lundunaborg and that the thingamen made a law that no one should stay away a whole night and that they gathered at the Bura church every night when a large bell was rung.[1]. That this settlement was outside London is shown by the attempted massacre of the Danes by the Londoners and also from a passage in the *Heimskringla* describing how Eric "fought to the west of London."[2] We can next turn to two distinct parallels, two actually historical settlements of the Danes in or near large walled towns in Saxon times. One of these cases is Rochester in Kent, the other is Dublin, and I will refer to the essential features of these two cases to see if they are repeated in the London settlement at St Clement Danes.

I have discussed the Rochester case at some length elsewhere.[3] Outside the defences of the castle but upon the great mound, on the northern part of which the castle is built, is a district called the Boley Hill. This district is not only topographically distinct from the castle and town of Rochester, but it was also constitutionally distinct. It had a separate jurisdiction of its own absolutely

[1] Lethaby, *London before the Conquest*, 114.
[2] Morris, *Saga Library*, iv. 26.
[3] *Village Community*, 247-252; *Arch. Cantiana*, xvii. 181-188.

independent of the mayor and corporation. The first historical notice of it is contained in a charter of Henry VI., and Edward IV. also granted a charter for the holding there of a court leet. But these charters only give legal sanction to much more ancient custom. The inhabitants of the district met in legal assembly under a tree in the centre of their district and this assembly determined all the rights and privileges of the inhabitants in a manner so exclusive of the jurisdiction of the mayor and corporation of the town that royal proclamations and other functions of the kind were always separately read at the assembly tree after they had been promulgated at the Guildhall. The whole history of this little community as I have traced it out is highly interesting and curious, and there can be no doubt that it represents a settlement by the Danes following one of their successful attacks upon Rochester.

But it may be argued that I have had to piece together the history of the Boley Hill community at Rochester just as I am endeavouring to piece together the history of the St Clement's community at London, and that therefore the parallel between the two cases is not a parallel of actual recorded fact on the one side and a suggested restoration of lost facts on the other side, but only a parallel between two separate sets of suggested restoration. This argument would have some force, but even so I think the fact that there exists so close a parallel in two perfectly distinct cities is important enough for either case to act as a support to the other. But I can go a step further

than this, for in the Dublin case there is far better record evidence of the method which the Danes adopted when they successfully made good their demands for a settlement in or near a great town or city.

The Scandinavian antiquities of Dublin have fortunately had a special historian, Mr Charles Haliday, and from his extensive and minute researches[1] based on documentary evidence of unquestionable authority, I summarise the principal facts for my present purpose. The oldest Norman records frequently refer to an extramural district east of Dublin denominated the *Stein* or *Staine*, a flat piece of ground extending southwards from the strand of the Liffey to the lands of the Rath, and eastward from near the city walls to the river Dodder. The point of land here referred to may be described as an elevated ridge near the confluence of the Liffey and the Dodder, forming what the Scandinavians termed a "Noes," or neck of land between two streams, and was the place where the Dublin northmen usually landed. I am not disposed to lay over much stress upon parallel topographical details, but it is certainly of remarkable significance that this extramural territory of Dublin should be so closely in keeping with the extramural territory of London associated with the Danes. As in Dublin so in London, the territory proceeded from the strand of the great river to near the city walls by the banks of the lesser river, thus forming a neck of land between two streams. In London these rivers were

[1] Haliday, *Scandinavian Kingdom of Dublin*, 1882.

the Thames and the Fleet respectively. The extent of the territory in London I shall discuss more fully presently, but its general position is indicated from its Dublin parallel in a remarkably accurate manner.

The place known as the Stein in Dublin was called after a great monolith which formerly stood not far from the landing-place. It does not appear that the stone was inscribed, but it stood about 12 or 14 feet above ground, and it so remained until the surrounding lands were laid out in streets and houses. Down to the seventeenth century it was a well-known landmark, and leases of the lands near seem to locate the property dealt with by reference to "the Long stone of the Stein."[1] This spot was called by the native Irish "The Green of Ath Cliath," and the successful Irish chieftain, Brian, after he had driven the Danes from Dublin, held a great council there.[2] Further than this, on a part of the territory of the Stein, there existed until the year 1685 a great mound known as the *Thing motha*, that is the council hill for the administration of the affairs of the Danish tribesmen, and not far off the *Hangr Hoeg* or gallows hill for the execution of criminals. All that has been collected about this site goes to show that it was the great assembly place of the Dublin Danes, and that many of the primitive Danish customs practised at such places were continued long after the Danish rule had ceased, for we find that the bowling green, the archery butts, the place for games, miracle plays,

[1] *Op. cit.* 152, where examples are quoted.

[2] *Wars of the Gaedhil with the Gael*, clxxii. 155. This volume describes the holding of Dublin by the Danes.

and pageants were at this mound, and that upon it in after years the mayor of Dublin sat with his jurats under a tent presiding over the armed muster of the citizens.[1]

Let me here summarise the results we have obtained from these examples. First, we have it that the territory marked off for the occupation of the Danish community was kept distinct and independent of the surrounding districts; secondly, that this territory was not merely occupied by a group of individuals, but was held by a social unit possessed of the power of self-government; thirdly, that the system of government was upon the ancient Danish lines, having for its chief symbol the stone or mound or tree sacred as the place of assembly; and lastly, that this open-air place of assembly was also the place of festivals and ceremonies having a sacred or tribal character, just as we know it to have been in the earliest days of Danish history. These four results are of great significance. They are associated items of the well ascertained social system of the early Danish tribesmen. They appear in France, in Scotland, everywhere where the Danish people extended their conquest in the ninth and tenth centuries, when they were at the zenith of their power as a conquering and settling race. They are indicative, in a way which perhaps no other evidence could be, of the presence of Danish settlers, and coming as they do from settlements in our own country they may clearly be used for the purpose of ascertaining whether any similar evidence is forth-

[1] Haliday, *op. cit.* 169.

coming from a district such as St Clement Danes, London, which has not kept its historical records complete enough to be able to do without the assistance afforded by parallel events elsewhere.

With this evidence before us we may turn to the facts which are recorded of the doings of the Danes at London, for these will meet the initial difficulty by showing that the Danes at London remained outside the walls, because they did not as conquerors obtain rights inside. After the peace of Wedmore, which gave Essex to the Danes in 884, the fleet of the Danes steered up the Medway and beset Rochester, which held out until it was relieved by Ælfred, and at the close of this part of the great struggle London is definitely stated to have been in Ælfred's hands. This is the main point to start with, for all before that is uncertain. It was plundered in 851, and in 880 the Danes were as near as Fulham, where they wintered, but these facts do not, as it appears to me, warrant Mr Green's assumption that London was all this time, under the terms of the peace of Wedmore, in the hands of the Danes. I think, on the contrary, that the fact that the peace of 886 sees London in Ælfred's hands without mention of his having won it back from the Danish chief, argues that it had never been actually taken by the Danes. If, however, London was not actually in possession it was often attacked, generally surrounded and virtually hemmed in, by the Danes. This would be sufficient to account for the grant of a place of settlement outside its walls, and I think the peace of Ælfred and Guthrum in 886 allowed this concession

to the isolated Danish settlers, although it shifted back the formal boundary of the Danish country to the river Lea, far east of London.

If the general history of the events recorded of these times points to the fact of a settlement just outside London, it would be confirmed if local history gave us any of the internal details of such a settlement. It was a tribal community which settled, not a mere herd of people brought together by the tide of conquest. The territory which was allotted to this community was singularly fitted to Danish requirements, as we have already seen by its remarkable parallel to the Danish territory in Dublin, and it left its landmarks on the map of London for many centuries.

We may turn for information first to the boundaries of Westminster, for if these boundaries did not reach to the city, the intervening territory will form a valuable part of the present enquiry. The first description of these boundaries is in a charter of King Eadgar, dated 951, in the following terms:

"First up from Thames along Merfleet to Pollen-Stock, so to Bulinga Fen, afterwards from the Fen along the old ditch, to Cowford. From Cowford up, along Tyburne to the broad military road: following the military road to the old stock of St Andrews Church: then within London Fen, proceeding south on Thames to mid-stream, and along stream, by land and strand, to Merfleet."[1]

There is not much to distinguish the eastern boundary in this description, but "within London

[1] Translated from the Anglo-Saxon by Mr G. Saunders in *Archæologia*, xxvi.

Fen" means within on the Westminster side. This is confirmed by a subsequent description of the boundary of Westminster, which appears in the decree of 1222, for terminating a dispute between the Abbey and the See of London respecting the ecclesiastical franchise of the conventual church of St Peter.

This decree entirely excludes from the Westminster franchise towards the east, all the precincts of the Savoy, and the entire parishes of St Mary-le-Strand and St Clement Danes, with portions of the parishes of St Andrew and St Giles. We thus have an extent of ground, which is depicted as uncovered in Aggas's plan of London in Elizabeth's reign, and which at a later period included Drury Lane, at the end of White Hart Yard, and extended to Somerset House and the river front. The growth of buildings in this district during the Stuart and early Georgian periods has obscured its early history, but the old boundaries of Westminster and of the city tell their story well, and enable us to look upon this territory as belonging to a special period and a special series of events. This territory did not belong either to Westminster or to the city. We must go further back for its origin than to parishes and precincts, and then we come upon a place named Aldwych. Colonel Prideaux, a well-known London antiquary, thus describes it:

"South of Great Queen Street is a district which was co-extensive with the area of what was perhaps the oldest suburb of London, the village of Ealdwic or Aldwic, known later as Aldewych and of which so late as the days of the Stuarts some vestiges remained in Oldwich Close, an open

space which lay to the south of Lincoln's Inn Fields. This village in the tenth century was largely colonised by the Danes, after whom the neighbouring church of St Clement was named. The high road of the village, which connected it with the hospital of St Giles, was known as the Via de Aldewych, and is represented by the modern Drury Lane with the exception of the south-eastern extremity, which led to the Holy Well of St Clement,"[1]

and the name of which survived in Wych Street before the new improvement.

[1] *Notes and Queries*, 9th ser. ii. 81. The topography of the district can be partly made out from later historical documents. We find Henry I.'s Saxon wife making choice of Aldewych for her leper settlement. Where Charing Cross Road runs stood the old Blemundsbury manor house. Upon the ground east of it Matilda raised her hospital, dedicated to St Giles. Next came the old church of Aldewych, with its lych gate, and close beside the Clocke Hose, whence the Curfew tolled. It was probably here that criminals, on their way to the gallows, paused for a minute to receive the Bowl, or Cup of Charity, and then passed on down Elde Street, turning to the left through Le Lane into the fatal Elm Close with its two tall trees. Opposite the church stood the village pound, and the stocks a little further eastward at the junction of Drury Lane (Via de Aldewyche) with Watling Road (Oxford Street), where Hugh le Faber worked his smithy, and just facing Drury Lane rose the village cross and the well (*Fontem communem*). In Plantagenet times (1200) we can trace five cottages near the smithy, and on the opposite side of Drury Lane, facing Holbourn, stood the Cristemasse Mansion. This mansion became an inn in the time of Richard II., and adopted his badge, the White Hart, as its sign, and was so known until its destruction in 1807, when it had become the White Hart Yard. The hospital, indeed, had been dissolved in 1539, but just previously King Henry VIII. had acquired the property of St Giles Hospital in exchange for land in Leicestershire, and it only boasted of three messuages then. In the indenture then drawn up we find specified :—25 acres of pasture lying in the village of St Giles ; one messuage called the White Hart and 18 acres of pasture ; one messuage called the Rose and one pasture. This represents the Aldewych lands formerly divided into (*a*) Aldewych West, (*b*) Aldewyche East, (*c*) the Campum de Aldewych.

Aldewych West was that region bounded west by the Via de Aldewych (Drury Lane), east by Newland (Belton Street, Short's Gardens, etc.), St Giles Street (Broad Street) on the north, and Long Acre on the south.

This is the territory which, I think, was Danish territory in the tenth century, and which was sufficiently separate from the city and from Westminster

Aldewych East or the White Hart and Rose messuages with pasture land, was bounded north by Holborn, south by Great Queen Street, west by Drury Lane, and east by Little Queen Street. Spenser's ditch, afterwards the common sewer, divided it into two.

The Campus de Aldewych, afterwards known as Oldwick Close, was bounded east by Lincoln's Inn Fields, west by Drury Lane, north by a footpath, now Great Queen Street. Southward it stretched over 16 acres to Wych Street, half in the parish of St Giles and half in that of St Clement Danes. A footpath, afterwards Princes Street (now Kemble Street) divided the parishes. The St Giles lands, including Aldewych, passed by royal grant into the hands of John Dudley, Viscount Lisle 1545, and two years later they became the property of Wymond Carewe. But it also seems that the same king granted the north part of the Campus to the Holford family and the southern part to Sir William Drury. The occupancy of the Drury family, though it has left so permanent an impression on the locality, was a very brief one. In 1564 the estate was sold to the Burtons, but meantime Clare Mansion had become Drury House, and the Via de Aldewych has ever since been known as Drury Lane. The Burtons also bought the Holford property, and in one way or another acquired most of the land bordering Drury Lane. But Drury House itself became the residence of the hero of the Plague, Lord Craven, and was henceforth known by his name.

With the exception of a few Drury Lane mansions Aldewych retained its pastoral character throughout the reign of Queen Elizabeth. For we read that "There were certain parcels of land by estimation 50 acres holden of her Majesty by lease, sometime of the possession of Burton St Lazarus of Jerusalem, which in times past had been Lammas and errable (*sic*) which was then divided; hedged and ditched, for meadow and pasture, and ought to be common at Lammas from St Giles to Hyde Park and towards Knightsbridge and Chelsea." And the ground rent appears to have been £1 an acre. In 1600 the first great building boom began, and the assessment of twenty-three years later gives

Drury Lane, 56 housekeepers.
Drury Lane (Cockpit side), 14 housekeepers.
Drury Lane (gardeners on the back side), 4 housekeepers.
Queen Street, 15 housekeepers.
Princes Street (both sides), 32 housekeepers.

Miss Hadley has kindly compiled this note for me from Blott, *Chronicles of Blemundsbury*, 237, 339-341; Parton, *Hist. of St Giles*, 105, 164, etc.

to have been included in neither of these places up to the time of the reign of Edward I.[1] The name Aldwych supports this theory, for the second syllable wych is the Scandinavian vik, "creek" or "bay," which appears in so many Danish towns on the east coast, and includes Greenwich and Woolwich in London;[2] and it is possible that Tothill Street situate off Gray's Inn Lane, on the high ground leading to Mount Pleasant, preserves in its name similar evidence for this settlement to that which has been noted for the settlement at Westminster.

So much for the territorial portion of the history; we can now turn to the constitutional history, for in this, I think, we have many important clues not hitherto properly brought into the history of London. If in connection with a territory which kept its distinctiveness down to historical times we can discover customs which can only be explained by reference to Danish customs in other places, as, for instance, Dublin and Rochester, already referred to, the argument becomes all the stronger that this must have been the place of settlement of the Danish conquerors of the country round London.

Perhaps the most significant relic of this Danish settlement is the stone monolith at which the chief of the tribe was installed and the assembly of the tribe met to discuss and settle the affairs of the community. This is to be identified with a stone

[1] Traditions to this effect are noted by Stow, and Blott's *Chronicles of Blemundsbury* records a legend connecting the residence of Harold Harefoot with Hereflete Inn on the present site of Chancery Lane.

[2] Cf. Skeat, *Etymological Dictionary*, s.v. "wich."

cross, as it was called in later days, which stood opposite the Bishop of Worcester's house, now Somerset House, in the Strand, and the means of identification are most interesting. In the first place, it was the spot where the dues were paid. This appears from a manorial custom first recorded, according to Hazlitt's *Tenures of Land*, in the reign of Edward I., when it appears that the dues for a piece of land in the parish of St Clement Danes were six horse-shoes paid annually "at the Stone Cross" (*ad crucem lapideam*). This land passed into the possession of the Corporation of London, who annually now render six horse-shoes for it at the Court of Exchequer.[1] It is probable that we have

[1] Hazlitt, *Tenures*, 203. It is worth while noting that this custom is still kept up. The ceremony of 1902 was thus described by the *Times*, 1st November:—"Some of the officers of the Corporation of London attend upon his Majesty's Remembrancer of the King's Bench Division of the High Court of Justice, to render to the Crown certain rent services due for land and tenements held by the Corporation *in capite* in the counties of Salop and Middlesex. The first rent service rendered yesterday by Mr City Solicitor to the King's Remembrancer, Lord Dunboyne, in one of the Referee Courts at 3 o'clock, in the presence of a number of visitors, was for a piece of land in Shropshire. The second service rendered was in response to the proclamation—'Tenants and occupiers of a certain tenement called "the Forge," in the parish of St Clement Danes, in the county of Middlesex, come forth and do your service.' The City Solicitor came to the table and counted six horse-shoes and sixty-one hobnails. A record of the rendering of this strange service can be traced to the 19 Henry III., when Walter le Brun, farrier, at the Strand, in Middlesex, was to have a piece of ground in the parish of Saint Clement Danes to place a forge there, he rendering annually the above rent service. It is probably now represented by a forge still existing in Milford Lane, and moved up there from the river bank when the Thames Embankment was constructed. Until the passing of the Act, 22 and 23 Vict. cap. 21, these rent services were rendered in the Court of Exchequer annually before the Cursitor Baron, upon the abolition of whose office the function was delegated to the Remembrancer."

in this custom the manorial form of a much older rite connected with the ancient Danish sacred worship of Lóki, the great pagan deity who protected smith's work; but if this point is not on the present occasion pursued further than to point out its evident connection with the subject, we are, at all events, entitled to suggest that another important point is not doubtful, for the manor dues being rendered at the stone cross is only the manorial successor to the older rite of the dues of the community being rendered at the place of assembly of the community. That this is a correct interpretation of the manor custom is gathered from further customs connected with this stone cross so called. Thus in the reign of Edward I. "the justices itinerant set at the stone cross" in the open air.[1] The custom is alluded to by several authorities and there can be no doubt as to its observance.[2] An open-air court of this kind is obviously of archaic significance. The justices came to it as to a place independent of the city or of Middlesex, and they came in conformity, no doubt, to ancient custom, not to thirteenth-century requirements. That custom takes us back to the Danish settlement where the heads of the tribe met at London, as they did at Dublin and at Rochester, at a monolith or other significant landmark, and as, according to all ancient authorities, was the practice in Danesland and throughout Scandinavia. It was the meeting-place of the assembly of the Danish community, the place

[1] Ritson, *Court Leets*, ix.

[2] *Chronicles of the Mayors and Sheriffs of London*, 237, 243; Penant, *London*, 159; Stow, *Survey of London*, Thoms' edit. 165.

where they administered their affairs and their laws. And in later days, before the district had lost its ancient idiosyncrasy of independence both of London and of Westminster, it was administered by the king's justices, but in the archaic Danish fashion and on the ancient Danish spot.

There is the additional significance of the Maypole of the Strand, so well known as connected with this spot. The Maypole and its accompanying ceremonial is a very ancient relic of the past, and it is essentially connected with a settled community. Nowhere in England is it otherwise than a public institution, a part of the corporate life of the people. On the continent of Europe it is something more than this —it is connected with the special feature of early life, namely, the tribal community, and above all the tribal community of the northmen. That it should have survived so persistently in this particular spot in London justifies the assumption that it comes down from the same tribal community of the Danes who settled outside London walls and gave the name of Aldwych to this district.[1]

I think we may leave this part of our subject here. The Danish settlement outside London fitted into the Anglo-Saxon settlement outside London, because both were tribal in form. That the new settlement of the Danes was kept outside London, just as the earlier settlement of the Saxons had been kept outside, is confirmatory evidence of the strength of London institutions as they were preserved within the city.

[1] The greater part of this study of the Danish settlement at Aldwych was published in *Macmillan's Magazine*, lxxxviii. 199-205.

It is almost unnecessary to proceed from this to point out what a different order of things we have to deal with in Saxon times compared with what we have dealt with under Roman times. When Britain was a part of the Roman empire and London was a Roman city, we have to treat of military, commercial, and political concerns organised upon the vast system of a great empire; when Britain was conquered by the English we have to treat of military, commercial, and political concerns organised upon the tribal system of a primitive and barbaric people. Each city of Roman Britain depended upon its place in the empire and upon its connection with other cities; each tribal settlement in England was an almost independent unit cultivating its own food grounds, living upon its own cattle, thinking of its own concerns, engaging in no commerce, and attending to little outside its own tribal affairs.

That the new order of things did not fit in with the older order is undoubted. London lost much of its hold over its territorium; lost it as part of its own dominion, and retained only the right of chace, and certain comparatively nominal rights. For actual purposes of government, it retired within its great wall. The Saxons crept closer and closer, not by right of the sword, but by right of settlement. The little village of Charing took its place between Westminster and the city wall; Kensington, Fulham, Chelsea, on the west; Paddington and Islington on the north; Wapping on the east, show the various centres of English settlement encroaching

into the territorium of London, fairly hemming it in, and thrusting Londoners behind their city wall. That is, I believe, the nature of the English conquest of London, and it is there we must turn to read the story aright.

How thoroughly the city of London is out of it all! We seem to have arrived at a state of things when, instead of London being the centre of commerce and trade and political life, with the great roads converging to her as to a centre, it was a settled policy to ignore her, and to perform all the great ceremonies in the open country instead of inside the walls of the great city. The coronation of Artorius, Roman successor to the Celtic Chieftainship, King Arthur, as we know him, at London, Silchester, and Caerleon, three important Roman cities, is in direct contrast to the crowning of the Saxon kings; and the coronation ceremony itself, with its undoubted parallels to the Roman forms and its almost certain derivation from Roman sources,[1] is in direct contrast to the English tribal ceremony at a rude unsculptured stone in the open air at Kingston or at Westminster. I shall show later on, how on great occasions London was appealed to or had her say in the election of kings, and I shall point to the significance of this; but at present what I want to dwell upon is that the tribes of the Saxons were forming themselves into kingdoms, sub-kingdoms, and finally shires of a greater kingdom, without the direct aid of London and the cities—

[1] Sir J. H. Ramsay (*Foundations of England*, i. 328) gives the authorities for this.

that gradually the state was being formed and was extending its authority, while the city was struggling against the new conditions before bending to the power of the state which was surely coming.

CHAPTER IV

At the end of the Anglo-Saxon period London was an English city of a type which has led me to conclude that it was the product of the Roman system of polity modified by the results of English influence and the events of English history. We have discussed Roman origins and discovered Roman survivals. We have discussed Anglo-Saxon origins and discovered an overflow of English influences into London rather than a complete reforming of London by English institutions. We have, in particular, discussed how London kept the manorial system of the English and the independent settlement of the Danes outside her walls, and the liberties beyond her walls. The accumulative evidence for London's independence of English polity is, I think, sufficient. The claim for a Roman origin is, I think, considerable.

This claim is opposed by all recent research and authority. Great authorities have long denied the influence of Roman institutions in English boroughs, and lately continental scholars are denying it in the boroughs of France and Germany. Professor Maitland, in particular, in his brilliant essays on Domesday, has reduced the English borough to the simplest dimensions and the simplest organisation.

Behind the defended walls of the county burghs he can only detect the men of the shire assembled in defence of the shire. Never mind whether, as at York, Lincoln, Exeter, Dorchester, London, and some others, the walls were Roman walls, the sites were Roman sites, the men of these burghs were in his opinion the shire-men assembled for defence or were the soldiers of the shire-men assembled for defence. Under this theory London belonged to the shire-men of Middlesex, not Middlesex to the citizens of London; and so at the best, when the curtains of history are drawn aside and we see Londoners passing laws for themselves in Saxon times, receiving charters from the Norman kings of rights and privileges which already existed in fact though not in law, we are only witnessing a group of armed burghers on their way towards citizenship. I confess this picture of shire defence is to me wholly inadequate to account for London, perhaps inadequate to account for much of the English burghal system. It is obviously in accord with the tribal polity of the stronghold. Professor Maitland does not connect it with this, and therein I think he weakens his argument. It is also obviously strengthened by a polity which was not tribal, and which led on towards a municipal organisation which was more than burghal. Professor Maitland does not perceive or does not grant this,[1] and I think he misses a very necessary element in the evolution of the English municipality, which,

[1] More recently Mr Chadwick, in his *Studies in Anglo-Saxon Institutions*, 225, claims that the burghal system was Danish in origin and denies to the burghs any administrative organisation.

after all, was something over and above the burghal stronghold held together by the necessities of military defence. I therefore fall back again upon the threads which have connected the long period dealt with in this study, and conceive the municipalised burghs of the Anglo-Saxon period to be the product of events which began when Britain was a province of Rome. This is not claiming for the English boroughs a Roman origin. It is merely claiming that the shell at least was made of Roman materials while the kernel was for the most part of English make.

That which I have by metaphor called the shell is an important part of London. It implies not only the material shell in the shape of the great Roman-founded wall; but the constitutional shell in the shape of an organised body of men. We may be doubtful as to the exact shape which this organisation took, as to whether it was perfect in all its parts, as to whether it was exactly understood by the lawyers and formulists of Anglo-Saxon times—we may be doubtful about many of the conclusions which we of this age arrive at concerning it; but there is no doubt as to its existence. The Londoners who fought at Hastings under Ansgar, their chief, were sent forth by the city as a part of its duty as an organised community, not as a mere accidental group of Londoners going out to fight the enemy. The Londoners who allowed Ansgar to negotiate with William, when William appeared as conqueror of southern England, were acting as an organised community under an appointed chief officer. The Londoners who received a charter from King William,

strange document though it was to them, were an organised community. That we cannot say of this organisation that it possessed all the features of a municipal corporation under Roman government is only proving that our records are imperfect, not that the organism was imperfect. That in the transition from the Roman form to the English form, and thence to the Plantagenet form, the shell of this great community had been at times so broken and fractured that its patching up produced no recognisable assimilation to a common form is possible. What I want to assert is that, not only was the shell there, but the organisation was there also.

Now Professor Maitland, in relying upon Domesday evidence, was of course conscious that in this great record we possess a summary, such as it is, of the burghal constitution in England at a very important date in our history. It tells us which of the English towns were burghs at the end of the Anglo-Saxon period, and if it does not tell us of the burghal constitution, it tells us much which must be of immense value. This evidence can be used, not as the point from which the burghal system in England had originated, but as the point to which the burghal system had converged from the momentous events through which it had passed. If the Roman cities of Britain, which were left by Rome with the legacy of defending Britain from the barbarian English, had a part in forming the English system, this will be best seen as they pass through the examination of the Domesday commissioners. If purely English cities arose out of the events, which shaped English polity,

they, too, will be best seen in the Domesday record. We may reckon up Roman losses and English gains. We may see if the burghs on Roman sites differ from the burghs on purely English sites, and may enquire what this difference signifies. And we may deduce evidence from these comparative facts which will determine the type of burgh to which London belongs, and the type of burgh from which it differs.

I think a comparison of London with other cities or burghs will be helpful in the understanding of the position of London, and, moreover, as I have already pointed out, the position of London as an English local institution is a necessary preliminary to the study of other local institutions. If, therefore, we can very shortly undertake such a comparison it will prove a necessary part of our subject. We can limit it in a very important manner by considering only:

(1) The position of the Roman cities at the end of the Anglo-Saxon period.

(2) The development of the English type of burgh on Roman sites and on English sites.

I

There are four important lists of Roman stations and towns,[1] but these need not be examined because

[1] Suetonius gives the number as, 20 cities in Britain (Vesp. 4); *the Historia Britonum* gives 28 (cf. Zimmer, *Nennius Vindicatus*, 108-110); Gildas (*De Excidio Britanniæ*) gives 28 as the number; Henry of Huntingdon gives 28 names (lib. i.); Mr Coote will have it that these colonial cities "eventually covered our island," and quotes Marcianus, the Heracleote, for an enumeration of 59 civitates in Britain. (*Romans of*

Nennius, the British historian, gives the names of twenty-eight cities which may be taken to represent those towns which survived the destruction, described so graphically by Gildas, and which therefore represent the cities of Britain to whom the Roman Emperor intrusted the government of Britain when the Roman armies withdrew. In any case it is the earliest list known to us from the British side, and as research into this question must for present purposes be limited in some direction, it is well to limit it by this list. I purpose then to show how these cities appear in comparison with London.

There are thus twenty-seven cities to compare with the remaining one, "Cair Londene," as it is termed in the Nennius list, the London of all later ages. It does not concern us much that the names are not entirely identified in a few cases, but taking them on the best authority available, we are able at once to dispose of thirteen cities named in the list. These are Cair Guorthegern, a castle and a territory on the river Gwy;[1] Caer Cucerat, which Haig identifies with Cockermouth in Cumberland;[2] Caer Meguaid, which Haig places at Meivod in

Britain, 123.) Dr Haig has discussed the Nennius and Gildas lists of 33 and 28, correcting the final list to 28, by an elaborate method of discovering duplicate names in the two lists. (*Yorks Arch. and Top. Soc.* v. 350-361.) But he starts with the assumption that the list relates to purely British cities, "we are not to expect places in his [Gildas] list which only rose to importance in Roman times and are known to us only from the Itineraries," and on this assumption concludes *inter alia*, that *Pensa uel Coyt* must be Stanton Drew, the Druidical circle in Somersetshire, and *Caer Urnac*, Avebury. I think the assumption of a list of Celtic cities is entirely out of the question. There were none such.

[1] *Celtic Remains* (Cambrian Arch. Soc.), 223.

[2] *Yorks Arch. Soc.* v. 358.

Montgomeryshire;[1] Caer Draithou, said to be Drayton in Shropshire;[2] Caer Urnac, not identified;[3] Caer Celemion, not identified;[4] Caer Segeint, Silchester; Caer Peris, Porchester; Caer Ceri, Cirencester; Caer Lion, Caerleon; Caer Licilid, perhaps Lechlade in Gloucestershire;[5] Caer Dauri, Dorchester in Oxfordshire; and Caer Guorcon, Wroxeter; all of which cities were not only not burghs, at the time of Domesday, but have never been in the position of burghs, so far as English records afford evidence. There are a few other places, such, for instance, as Kair Dorm, Dormchester, on the River Nen in Huntingdonshire, mentioned by Henry of Huntingdon, but not in the Nennius list, which might be worth noting here, because of the significant contemporary record of utter destruction,[6] for this work of destruction, if not as universal as Mr Freeman would have us believe, went on after the first years of strife for conquest.

It is indeed the key to what has to be recorded of the twelve cities of the Nennius list, for their history is only contained in their ruins,[7] and of two of them their ruins tell most eloquent tales of overwhelming destruction. These two are Silchester and Wroxeter. They are still English villages among

[1] Haig, *op cit.* 359; cf. *Celtic Remains*, 303.

[2] *Irish Nennius*, notes, p. iv.

[3] Haig (*op. cit.* 359) would put it for Avebury.

[4] Haig (*op. cit.* 359) would put it near Willoughby in Notts, but the author of *Celtic Remains*, 390, frankly says it is not to be identified.

[5] Haig, *op. cit.* 359.

[6] *Historia Anglorum*, lib. i.

[7] There still remained, says Beda of the year 447, the ruins of the cities destroyed by the enemy and abandoned (lib. i. cap xxii.).

the fields, mingling their farm lands with the remains of Roman times.

The story of their fall is to be gathered perhaps from the remains. The forum at Silchester was buried under a mass of mortar and concrete, and immediately underneath the thick layer of charred wood was found a very beautiful Roman bronze eagle, which, though perfect in every detail, every feather having been individually finished, showed that it had been torn away from the staff on which it stood. Was this, then, the eagle of the Roman legion, the banner of the Roman soldier, and did the Roman commander defend his city to the last stages from his English foes, standing on the steps of the forum beneath the shadow of the eagle, sacred symbol of the Roman power? We can almost imagine it must have been so, imagine that he saw his foes gathering at the entrance to the forum, that he wrenched the eagle from its staff, and placed it in the rafters of the building, where it was safe from capture and destruction, which was to be the lot of those who fought under its wings. And then when the last came, when the place was fired by the terrible foe, and buildings and all were destroyed in one common ruin—the searchers of to-day find the eagle amidst the embers of a fire lighted by our English ancestors more than thirteen hundred years agone, but still able to tell something of its story.[1] Whether

[1] This is Mr Joyce's story of Silchester in *Archæologia*, xl. 403-416; xlvi. 329-365; the systematic excavation of the site has since been undertaken, and the record of this magnificent piece of work is contained in *Archæologia*, lii. and continuing volumes, the work being still in progress.

this is so or not no one can tell, but I think the reading from the ruins of Wroxeter is somewhat more decisive. In one of the hypocausts discovered among the ruins three human skeletons were found. One of these appeared to have been crouching in a corner, and the other two were lying extended by the side of the wall. The crouching form had been that of an old man; the two others appear to have been females. At a very short distance from the skeleton of the old man lay a little heap of one hundred and thirty-two small copper coins, and among them a few small iron nails and remains of decayed wood which showed that the coins must have been enclosed in a small wooden coffer. Here then, is a grim record of the sack of Uriconium. These three individuals—husband, wife, and daughter, it may be—had sought concealment by creeping into the hypocaust, and then the old man had tried to secure the money which was in his reach. Perhaps they had been suffocated in their place of refuge; perhaps the burning buildings had fallen in and blocked up their passage outwards. In any case here is a terrible story of the ruin of Wroxeter, the Uriconium of Roman Britain.[1] Caerleon is another famous Roman site with no English history except as a ruin. Giraldus Cambrensis, who wrote an account of his journey into Wales in the reign of Henry II., tells us that he then saw many vestiges of its former splendour, "immense palaces ornamented with gilded roofs in imitation of Roman magnificence, a tower of prodigious size, remarkable hot baths,

[1] Wright, *Uriconium*, 118.

relics of temples and theatres enclosed by walls parts of which remain standing,"[1] but all deserted.

Caer Peris (Porchester), and Caer Ceri (Cirencester), have a slightly different history. They have become English villages with the English village constitution. Porchester still possesses the Roman castle and other remains of the Roman period,[2] but we have to pass straight to the Domesday survey for its next record in history, and then we find it held upon the English manorial tenure of the normal type. Cirencester was conquered by the Saxons in 577,[3] and at the Domesday survey along with its Roman ruins it retained evidence of its reorganisation on tribal lines, a survival, according to Mr Seebohm, of mixed Welsh and English customs.[4] It is important in this connection that there is evidence both of conquest and destruction and of reoccupation by the conquerors, reoccupation meaning not a continuity of Roman forms of government but of the tribal forms of the English. Cirencester was not only an English manor of the normal type, but the head of the hundred to which it gave its name.

It is clear that comparison with these cities of Roman Britain leads us either to the definite story of English conquest followed silently by English settlement, or to the indefinite story of English neglect followed by English settlement more slowly, neither

[1] Giraldus Cambrensis, *Itinerary through Wales*, cap. v.

[2] These have been elaborately examined by Mr C. H. Hartshorne in the Winchester volume of the Archæological Institute.

[3] Cirencester is one of the places to which is applied the legend of having been destroyed by means of combustible matter being tied to the tails of sparrows, who flew to the town, and thus set fire to the houses.

[4] Seebohm, *English Village Community*, 211.

of which results can by any possible line of research show a parallel to the condition of things at London.

We proceed, then, with the remaining fourteen cities, and it will be well to take first of all three cases which show the same dread story of conquest and settlement, but in a different manner to those already related. These three cases are Caer Caratauc (Verulamium), Caer Grant (Grantchester), and Cair Cei (Caistor),[1] all of which show the destruction of the Roman city and the rebuilding of the English burgh mostly with Roman material, not on the site of the destroyed Roman city but on a site adjoining, Verulamium becoming English St Albans, Grantchester becoming English Cambridge, Caistor becoming English Norwich. There can be no question about what has happened here. Beda describes Grantchester as a small abandoned city in A.D. 660[2] and an old rhyme of traditional antiquity proclaims that

> "Caistor was a city when Norwich was none,
> And Norwich was built of Caistor stone."[3]

Norwich, founded since the conquest, held lands *in commune*,[4] and so late as 1835 the freemen of the city received "annually one shilling each for the rent of the town close estate, which was formerly a common."[5] How important this point is as a distinguishing

[1] Henry of Huntingdon identifies this place with Chichester, but Haig (*op. cit.* 359) makes out a good case for Caistor.

[2] Beda, lib. iv. cap. 19.

[3] Thompson, *English Municipal History*, 110.

[4] Mr Round in Victoria County History of *Essex*, i. 423.

[5] *Mun. Corp. Com.* 1835, iv. 2466.

English feature will be better illustrated a little later on, but its contrast to London may at once be drawn. These three cases are English cities built out of the ruins of the Roman cities which they supplanted, and, as might be expected, they reflect nothing but their English origin.

II

We come now to the remaining eleven cities, all of them occupying Roman sites, some of them still within Roman-built walls, but not all of them with a continuous burghal history, for one of them was not a burgh at the time of Domesday, having become a borough of the constitutional type in later ages.

This latter case is Carlisle, which was made a borough by William Rufus, but which was given by Egfrid in A.D. 685, with almost contemptuous indifference, to St Cuthbert, when it was still a ruined Roman city with a territorium of 15 miles round about the same.[1] The significance of the territorial grants by early English kings being situated beyond the sphere of tribal territory is very great, and Carlisle appears to me to be an important illustration of this point.[2] It was a Roman city with its own

[1] The charter is given by Kemble, *Cod. Dip.* i. No. xxv. "donavi eciam civitatem quae vocatur Lugubalia, et in circuitu ejus quindecim miliaria."

[2] This is a difficult matter to prove, for it requires local topographical knowledge of a wide and special kind, including that most difficult of all subjects, the philology of local nomenclature. But it gains support from many sources the more closely enquiry is made. And in particular it is not a little significant to note that the lands left by Ælfred in his will scattered about in all parts of the country are summarised by the significant sentence "that is all which I have

territorium, and as such was of no importance to the English tribesmen of the seventh century. The English king could do as he willed with conquered territory of this kind, and so Carlisle passed into the domain of St Cuthbert. From the seventh century to the eleventh it lay practically dormant, and only reappears as a borough in post-Domesday times.

There now finally remains from the Nennius list of Roman cities in Britain a group of ten which occupy Roman sites, which were burghs at the time of Domesday, which are English boroughs now. Here, if anywhere, the parallel with London should be close and conspicuous if we are to get close and conspicuous parallels at all.

The cities belonging to this group are Cair Ebrauc (York), Cair Ceint (Canterbury), Caer Guorancguon (Worcester), Caer Merdin (Caermarthen), Caer Britoc, (Bristol), Caer Guent (Winchester), Caer Collon (Colchester), Caer Lerion (Leicester), Caer Loit Coit, Lincoln, and Caer Gloui (Gloucester).

Let me note at this stage that we have come across in the story of some of these cities, such as

among the Welsh race excepting Cornwall." (Thorpe, *Diplomatarium Anglicum*, p. 488.) "Synd ealle ðe ic on Wealcynne hæbbe butan triconscire." Egfrid's grant of Carlisle and its territorium is perhaps paralleled by another donation by which Cartmel in Lancashire was given "with the Britons belonging to the same"—"et omnes Britanni cum ea." (Palgrave, *Eng. Com.* i. 436 and ii. p. cccxi.) The fact that in all the early wills and grants which deal with actual gifts apart from charter rights, the lands of the donor are scattered about in many parts of the country leads one to suggest that the cause is that these lands were lands acquired from the conquered Celts. But the whole subject deserves special enquiry, for it opens up an important phase in the history of early English lordship.

Porchester, Silchester, Cirencester, the manorialisation of the ancient Roman sites which have become English villages and not English boroughs. Now that we are approaching the sites on which have grown English boroughs, we may enquire, first of all, whether there is evidence of the English manorial system forming the basis of or intruding into the municipal organisation, and, secondly, whether there is evidence in the municipal organisation itself of a system which equates with the manorial system, of a municipal life, that is, which is not bounded by the town walls and gates, but stretched out in quite a special fashion into agricultural lands beyond, and whether this organisation is of the administrative type. This will place the comparison with London upon quite a definite footing.

I do not propose to go into minute details, for all that is needed for present purposes are general principles relating to the manorial organisation, and to the possession of common lands. We obtain the first step by an examination of the municipal boundaries of the ten cities under consideration. It will be remembered that London was contained within the Roman walls with a fringe of so-called liberties beyond, formed, it was suggested, from the remains of the ancient Roman Pomœrium. Of the cases before us we find from the maps published in the reports of the municipal boundary commission in 1835 that very limited boundaries formed the municipal jurisdiction in York, Canterbury, Worcester, Bristol, Winchester, Leicester, and Gloucester, compared with very extensive boundaries into the

agricultural lands beyond at Colchester, Lincoln, and Carmarthen. Here, then, are two different types, seven conforming topographically more or less to the London type, and three being distinctly different.

Let us consider the latter three cases in the first place. Colchester occupies its Roman site, still possesses its Roman walls and its vast supply of Roman remains recovered for the museum whenever the modern surface is being excavated. Although Dr Guest and Mr Freeman think there is more reason in the case of Colchester than in other cases to talk of a continuous occupation through Roman, British, and English days,[1] the story of Colchester is not the story of a Roman town. How essentially English it is we can see by its use in Anglo-Saxon times as a defensive postition. Occupied by the Danes, it was retaken by the English, and Edward the Elder, having repaired its wall where it "tobroken was" in 921, it became by its final settlement an English burgh whose principal features are fortunately recorded in Domesday, and have equally fortunately been examined by Mr J. H. Round.[2] Burgesses at Colchester held lands *in commune*, and had *communem pasturam*,[3] and there seems to me no doubt that the municipal lands were lands of the ordinary English type. Mr Chadwick would give to Colchester simply the burghal organisation due to Danish influences and without adminis-

[1] Freeman, *English Towns and Districts*, 395-397.

[2] See Victoria County History of *Essex*, i. 414-424.

[3] See particularly Mr Round's papers in *Antiquary*, vol. v. and vi; compare Freeman, *English Towns and Districts*, 408-409.

trative powers.[1] In this Mr Chadwick does not go far enough with his researches, I think. Community of land holding carries with it administrative organisation and an organisation, too, far in advance of burghal requirements.

At Lincoln we have much the same evidence of an undoubted Roman site girt in with Roman walls, with Roman remains constantly discovered to illustrate the period of Roman history, and then of a completely English organisation. Mr Freeman will have it that "the city has kept up its continuous being through Roman, English, Danish, and Norman conquests,"[2] and he rightly insists on the importance of the name Lincoln, Lindum Colonia, as a feature which distinguishes the Roman character of Lincoln over and above every other city, arguing that "there was no Roman town in Britain whose strength and majesty made a deeper impression on our fathers than the colony of Lindum."[3] But Mr Freeman does not distinguish. The English might admire but they conquered and occupied. Chronological continuity is not constitutional continuity, and the mere fact of continuance year by year, or with ever so short a break, is of no significance unless with it is carried the really significant fact of continuity of institutions. This we do not get; and I think Leland's words fit

[1] *Studies in Anglo-Saxon Institutions*, 225.

[2] *English Towns and Districts*, 192.

[3] *Ibid.* 199. See, however, Mr Bradley and the correspondence in the *Academy*, 21st October 1893 to December, on the name not being derived from Lindum Colonia. Mr Plummer does not think Mr Bradley proved his case (Beda, ii. 108), but the argument is worth further consideration by philologists.

the case: "after the destruction of this old Lincoln men began to fortifie the souther parte of the hill, new diching, waulling, and gating it, and so was new Lincoln made out of a pece of old Lincoln by the Saxons."[1] It is true we have to consider Beda's description of the conversion of Lincoln to Christianity by means of the example set by Blecca, *prœfectus Lindocolinae civitatis*; that in the name of the prefect as well as in his title we may have veritable examples of living Roman institutions; that the Eadwin who conquered Lincoln was also the Bretwalda whom we have already noted, taking upon himself the trappings of Roman dignity;[2] but even with these facts we have also the facts of ascertained conquest and of the results of conquest. We have, too, the results of settlement living on to modern times. The city customs are quite sufficiently of the normal English type to find their way into Domesday. There were twelve lawmen as there were at Stamford, and they probably answered to the *xii. judices civitatis* of Chester;[3] and there were burgesses besides, of whom it is recorded that the churches and burgesses of Lincoln had amongst them thirty-six crofts in the city and, as I read it, the whole of "Lincoln field outside the city," except 12½ carucates of land held by the king and the earl and others. This Lincoln field is a living institution of the English type. There is nothing Roman about it. In 1835 it was still in existence, for the freemen had then "exclusive rights

[1] Hearne, *Leland Itinerary*, i. 32.

[2] Beda, ii. cap. xvi.

[3] Ellis, *Introduction to Domesday*, i. 205; Maitland, *Domesday and Beyond*, 211; Ballard, *Domesday Boroughs*, 51.

to stock the common of the city and to hold leases of the city property." There were four of these commons and the corporation are lords of the manor and hold their court leet.[1]

I see nothing in the history of the Welsh city to seriously differentiate it from the two English cities. Carmarthen is the home of Geoffrey's Merlin, that son of a princess of Dimetia, daughter of the king, whose father was unknown, and whose mother lived in St Peter's Church among the nuns of the city, called afterwards Kaermerdin.[2] It was the Roman Maridunum, and Giraldus states that it was "enclosed with walls of brick part of which were still standing in his day."[3] Through whatever vicissitudes of fortune it underwent in times immediately following the retirement of the Romans and the massing of the retreating British into Wales, it finishes as a borough of the normal type, with its court of view of frankpledge, and its court of pie-poudre, with its castle site not within the municipal jurisdiction and in possession of extensive property.[4]

The remaining cities are municipal towns of limited areas, areas limited, as it is easy to see, by the ancient walls. But there is this curious point about them. The municipal organisation extends beyond the municipal area so as to include agricultural lands beyond, held in common by the burgesses. As at Colchester, Lincoln, and Carmarthen, there are burghal lands belonging to the

[1] *Mun. Corp. Com.* iv. 2350, 2352, 2357, 2362.
[2] Geoffrey of Monmouth, *Hist. Brit.* vi. cap. xvii.
[3] Giraldus Cambrensis, *Itinerary through Wales*, cap. x.
[4] *Mun. Corp. Com.* i. 203, 210, 212, 215.

burghers in common, but unlike Colchester, Lincoln, and Carmarthen, these lands are not included in the municipal boundaries. What this division between municipal boundaries and the area covered by the municipal organisation exactly means I am not prepared to say. It is evidently more the normal type than the other three cases, where municipal boundaries include the agricultural lands. It may be due to comparatively late influences. But whatever the causes for the division of boundaries, the fact of an extensive municipal organisation remains, and this is the point upon which I must lay stress.

The first of these cities is undoubtedly York. One might have expected that here, at all events, we might find a duplication of the facts relating to London. But we do not. The facts relating to London are represented by very few parallels, one of which is the significant rule as to heirship and succession already noted, and by a sort of controlling power by London by which "the custom of London is said to control that of York."[1] In all else we find a duplication of most of the facts relating to Lincoln and Colchester, including the important possession of arable and pasture lands allotted to the freemen, but allotted in such a form, each ward having its separate arable and pasture allotments, as to confirm Sir Henry Maine's belief, "that some European cities were originally nothing more than the township-mark of a Teutonic village community grown to greatness,"[2]

[1] Pulling, *Laws and Customs of London*, 3.

[2] Maine, *Village Communities*, 118. I have worked out the place of York in English local institutions rather fully in the *Cornhill Magazine*

and to afford the most striking contrast of all to the condition of things at London.

Canterbury, the Roman Durovernum, was early in possession of the Saxon conquerors of east Kent. Mr Wright thought that the discoveries of Saxon interments in the Roman burial-places show that the Saxon occupation was a peaceful succession to Roman organisation,[1] and there is some confirmation of this in the words of a charter of Æthelheard in 805, referring to the prefect of the corporation of the town "in hac regali villa inlustris civitatis præfectus," thus making a distinction between the governing authority and the town.[2] Possibly, too, in the little church of St Martin we have an actual Roman building, but there is little else to tell us of the Roman city. At the time of Domesday, on the contrary, it is in complete English garb. The burgesses had 45 masures without the city, and of the king 33 acres in their geld, and Mr Ballard gives good reason for believing that this was a collective holding of property.[3] The corporation still holds houses and lands in various parts of the city; there are still several precincts not within the jurisdiction of the city; the wards are governed by their court leets, and the manorial organisation is thus formed; the pound-keeper, the borsholders, and the blower of the burghmote horn who gave notice to the courts of burghmote by

for November 1906. The curious allusion in the Irish version of Nennius (p. 66) to the "Green" of the city of York is worth noting.

[1] Wright, *Celt, Roman, and Saxon*, 510.

[2] Kemble, *Cod. Dip.* i. No. clxxxix.

[3] Ballard, *Domesday Boroughs*, 87, 89; Cf. Maitland, *Domesday and Beyond*, 201.

blowing a horn near the houses of the members — all of which signalises that Canterbury had entered very early into its English life.[1]

Bristol has very little to contribute to the points we are dealing with. It was destroyed by the Saxons before they occupied it.[2] Later we see it fully manorialised, for in a case before the courts in the year 1341 it was stated that "the manor of Bristol extends into two counties,"[3] and its Tolsey court and court of pie-poudre lasted to later days.[4] Worcester was built between 873 and 899 "for St Peter's and the church at Worcester . . . as a protection to all the people and also to raise the praise of God therein."[5] Gloucester was very early captured by the English Cuthwine and Ceawlin, who, fighting against the Britons in 577, took from them three cities— Gloucester, Cirencester, and Bath; and Kemble very rightly draws attention to the fact that this must have meant the country which these cities dominated as well as the cities themselves.[6] When it rose again as a burgh it was in English fashion. Domesday does not distinguish it from other burghs, and later on it is possessed of its court leet, while its freemen enjoyed extensive rights of common and

[1] *Mun. Corp. Com.* ii. 683, 692, 697, 707.

[2] Seyer, *Memoir of Bristol*, i. 276.

[3] *Year Book*, 14 and 15 Edward III. 184.

[4] *Mun. Corp. Com.* ii. 1155, 1172, 1174.

[5] Kemble, *Cod. Dip.* v. No. mlxxv; Thorpe, *Dip. Anglicum*, 137.

[6] *Anglo-Saxon Chronicle*, anno 577; Kemble, *Saxons in England*, 295. The allusion of William of Malmesbury to these cities as the strongly fortified places of refuge to which the Britons retreated (i. cap. ii.) is also important.

owned in their corporate capacity a large part of the houses in the city.[1]

There are Winchester and Leicester still to consider, and both have special features which differentiate them somewhat from the other cases. Still the final result is the English burgh system and not a system founded upon a Roman original. Winchester is dominated by its bishop; its municipal territory is surrounded by the soke of the bishop and the bishop's court, the Cheney court, as it is called, has a jurisdiction which includes the city in a larger area of some 30 miles from the centre.[2] It may be that we have here traces of the territorium of the Roman city, but if so it is separated effectually from the English city. Leicester belongs to the story of Æthelflæd, Lady of the Mercians, who in 918 got the burgh "into her power peacefully; and the greatest part of the army which belonged thereto became subjected to her."[3] What this army which belonged to Leicester really signifies one cannot exactly say. It looks as if it might be the remains of the military organisation of the Roman city. Leicester also possessed in significant fashion its liberties, which extended half a mile round the town. In any case it was manorialised. It is termed a manor by the charter of Elizabeth, and possessed the ordinary manorial organisation, including a town field unenclosed until 1810, lammas land, and other properties.[4]

[1] *Mun. Corp. Com.* i. 61, 62, 66.
[2] *Ibid.* ii. 895, 904, 905.
[3] *Anglo-Saxon Chronicle*, anno 918.
[4] *Mun. Corp. Com.* iii. 1889, 1893, 1894.

III

We have thus traced out in ever so brief a fashion, but in sufficient detail I think for our purpose, the dominant features of the sister cities to London, which were left by their Roman founders with the government of Britain. Where, as Roman cities, they are not destroyed physically they are destroyed constitutionally. All that was Roman was put on one side and all that was English took its place. They appear as burghs of the English type, not cities of the Roman type, and not as cities of the London type. The territorium of these cities held for general purposes and for purposes of administration has entirely disappeared, and in its place we discover the lands of burghs with either the actual government of an English manor or the normal type of manorial organisation. The exceptions are Winchester, where perhaps the Church took over the ancient jurisdiction of the territorium, and Leicester, where the great sister of the great King Ælfred took over the Leicester army. In all other cases the burghs are in possession of burghal lands, generally the same kind of possession as that which distinguishes the agricultural village communities of early and primitive politics. Burghs and burghal lands are combined into one solid possession for the economic use and benefit of the burghers.

This solidarity, if I may so speak, of the burghal lands is, I think, destined to play a very important part in the legal history of the borough whenever English lawyers will cease to apply the legal

terminology of modern times to the historical conditions of early times. No one will, I suppose, doubt that a system of common land-owning and common land-cultivation obtained in all the communities of England, at least from Anglo-Saxon times. Mr Seebohm's statistical proofs go so far even if my anthropological proofs are not generally accepted for a yet earlier origin. No one will doubt that the boundaries of the lands so held and so cultivated became, at least in historical times, of great importance and were defended with pertinacious force. No one who takes the trouble to read the curious accounts of beating the bounds will doubt the survival of practices which take us back to human sacrifice perhaps, certainly to animal sacrifice, and to other indications of primitive or prehistoric ceremonial,[1] and to the frequent occurrences of practices which tell in favour of a vigorous common life of the town whereby "the rectification of frontiers was resented as stoutly as a new delimitation of kingdoms and empires to-day."[2] All the same, because boroughs were not legal corporations until late in mediæval times, and because the influence of the king and his constant interference in municipal matters are everywhere apparent, these and other legal facts are taken not only to determine the legal history and position of the burgh, but to dominate the views as to the evidence of origins. The fact is that the history of the burgh affords important testimony of a

[1] Cf. Mrs Green, *Town Life in the Fifteenth Century*, i. 134.
[2] *Ibid.* 136.

totally different character, testimony which belongs to the domain of comparative jurisprudence, and which reveals the incapacity of Norman lawyers, trained in all the advanced technicalities of Roman jurisprudence, to comprehend the constitutional and economical conditions of communities which were as far behind the political conceptions of our Plantagenet kings and their lawyers and ministers, as the Irish tribal communities were behind the political conception of Elizabethan lawyers, or as the Hindu communities of to-day were behind the political conceptions of the English viceroys and English lawyers before the days of Sir Henry Maine. They could not describe what they did not understand. I confess that this reflection has a special reference to the conclusions arrived at by our latest distinguished historians of English law, Sir Frederick Pollock and Mr Maitland, who assert that the borough of the thirteenth century had "very little property, if under the term property we include merely the ownership of lands and goods," although in saying this they

"do not intend to deny that there were some few instances in which the borough corporation or the men of the borough by some sort of communal title (we must needs use a very vague phrase) had held land from an extremely remote time. This may have been so at Malmesbury; but we are fully persuaded that such cases were rare"[1]

—that is to say because Malmesbury has yielded to the pressure of scientific investigation, and has

[1] *History of English Law*, i. 638, 640.

been duly placed among the village communities of England,[1] other boroughs whose records are not so complete or which have not been examined in the same manner, are to be held up against it to force an artificial case of proportions. Malmesbury in England has to be compared with Lauder in Scotland and Kells in Ireland and with all the other types of English boroughs before the question of the formation of the purely English boroughs on English sites can be dismissed. I quite admit that the legal difficulties, as stated by Mr Maitland in the way of considering the mediæval borough as a land-owning corporation, are very great, but I am not yet prepared to admit that legal difficulties are necessarily a bar to using the evidence for what it is worth scientifically in the early history of institutions. If the land held by the burghers, cultivated by the burghers in an extremely archaic fashion, and passing to the customary successors of burghers of one generation to those of the next generation in a fashion quite outside the legal rules of succession, is not sufficient to dub the burghs of the thirteenth century legal corporations, I am content to leave this negation to the lawyers, and to accept for my present purpose the fact that this code of land rights has at all events been of sufficient force to determine the extent and boundaries of the borough organisation when it was at last endowed with the status of a corporation in the legal sense. English boroughs on English sites and English boroughs on Roman sites both tell the same story, for they differ

[1] In my *Village Community*, 187-200.

from each other in small points of detail only, and their manorial and agricultural organisation must be taken count of in the comparative history of English institutions.[1]

The net result of our examination of the comparative history of English cities is I submit to satisfy us that no real parallel with London lies there. Destruction in one form or another or development in the English direction are the alternative results obtained, and against these there is perhaps the doubtful exception of Exeter, which is not one of the Nennius cities, under one or two heads. The uprising of the English city was in fact due to a great extent to ecclesiastical influences. At York, Winchester, Canterbury, Worcester, and Gloucester, the Church was plainly dominant, and in other cases there is only less evidence of this because the issues were not so great. That London is unique in the evidence she affords as a local English institution seems therefore to be made out all along the line. This result strengthens instead of weakens the argument that a particular set of circumstances have allowed London to have a continuous and influencing life from Roman times. It would have been difficult to have sustained this for any other city than London. The tribal organisation which beat against the walls of the defended Roman towns has left too many of its traces in after times for those walls to

[1] I examined this subject many years ago in a paper contributed to *Archæologia*, xlvi. 403-422, under the title of "Traces of the Primitive Village Community in English Municipal Institutions," also "Malmesbury as a Village Community," *Ibid.* l. 421-438.

have been left intact except through a combination of circumstances which could perhaps have occurred only once. This is the verdict which I submit for acceptance, and I go forward to see what there is in later London history which may have received the impress of its Roman origin, and its Anglo-Saxon adaptation.

CHAPTER V

UNDOUBTEDLY what has been examined up to this point relates to London in an unformed state—a state that was influenced by the position of London but which never quite included London in its own formal organisation. We have now to pass from the period of unformed constitution to the period of definite state constitution. That the English state was not imposed upon Britain in a complete form allows us to see, during the period of final making, many of the elements which belong to the period of pre-formation. That the period of its final making was the Norman period and the agents, the conscious agents, were the policy and acts of the Norman sovereigns, introduces us to an entirely new condition of things whereby the state is seen acting as the central government, imposing its will upon all parts of the country, upon London as upon all parts. The old and the new conditions were both active forces in the early days of the Norman settlement, the one surely if slowly attaining the completeness of its new position, the other struggling, though struggling in vain, to retain its old position." If these two opposites can be detected in the Norman history of London they will afford further evidence of the

conditions of London prior to the Norman settlement as well as of the methods by which it was made to conform to Norman theory and practice; for it is impossible to assume that the assertion of positions inconsistent with Norman theory can be due to any other causes than those which belong to circumstances before Norman theory was interposed. Further, if Norman theory has to struggle for its position, the fact will afford proof that the opposition of London to it was powerful and strong, founded on deep foundations, not fitful and accidental, the mere result of opposition to change.

These are the considerations with which we must approach the position of Norman London as a contribution to the unfolding of London as an English city, and it will be found that they group themselves round the following subjects:

(*a*) Norman Governance of London.
(*b*) The Charters.
(*c*) London and the Sovereignty.
(*d*) Municipal Law in the City.
(*e*) The Growth of State Law.

I shall proceed with the subject in this order. It will not be possible, and I do not think it will be necessary, to tell the story of succeeding centuries in minute detail. All that is needed is the general outline, illustrated by a few significant facts which have from time to time found a record among the city archives and by such constitutional details of city government as may be necessary for the purpose. I shall leave nothing out which may tell in favour of a different construction from that I prefer to take, but I shall not

overburden the enquiry by referring to details in chronological order, simply because they happen to exist. So much has been left unnoticed that it is most essential to get the main features properly detailed and properly classified. The smallest point may in this respect become of the greatest significance, while facts which are already well to the fore may be comparatively unimportant. I shall aim at a general survey of the later history, picking up the constitutional points as they occur, and leaving on one side all that does not illustrate in one way or another the object in view.

We shall have for our guidance an entirely new element, namely, documentary history. But this will guide us aright only if we approach it from the ages behind. It is too much the habit of historical enquirers to study documents through the vista created by later events, instead of trying to find in them the continuation of events from the earlier period. Looked at from this latter point of view, we have a city under the domination of the sovereign, but entering on occasions into strange and powerful relations to that sovereign. Following on all that has been said about the position of London under the Saxon sovereignty, its domination under the Norman sovereignty introduces an entirely new element, and we may expect to find evidence both of its old independence of the sovereign-power, and of its new dependence upon the sovereign power. We should find this dual phase of London life, if we find it at all, first in the existence of municipal laws, or municipal acts of government, which are the laws

and acts of the citizens, unconsciously continuing laws and acts which were always theirs, and, secondly, in the existence of laws imposed by the sovereign. There can be no mistaking the distinction between these two classes of laws. They exist on altogether different conditions. Municipal laws and acts will be found to lessen and disappear; sovereign laws will be found to develop and increase. If it is true that the state sovereignty of the Norman kings brought London under its dominion we shall find the process by which it was brought about, not in any one document or in any one act, but in the relationship of municipal to state law. That it is possible to speak of the Norman documentary history of London in terms implying a distinction between the municipality and the state is evidence, I think, of the correctness of approaching our examination of this history after having ascertained the facts of the earliest period. I do not, of course, say that the Norman documents do not suggest the need of some such explanation as I have attempted to supply from the Saxon and the Roman evidence, but the latter stands upon its own foundations, and therefore may be said to give additional support to the reading of the strangely dual history which is to be obtained from Norman times as it has been obtained from Anglo-Saxon times.

We shall find, indeed, that the Norman policy was a new era for the cities and towns of Britain. Up to this stage we have had to deal with the evidence of neglect by the conqueror—to show that Saxon conquerors left the cities which survived the

conquest alone, and settled in the lands around them, and in the case of London to show how this policy allowed the old Roman independence to be kept up to some extent. Now there is something entirely different. Saxon defensive towns were appropriated for Norman military purposes. Everywhere the Norman keep and castle rear their magnificent height and strength and dominate the whole town. Go where we will among the English cities we shall note that the Norman castle is built on the older mound, and is built to hold the city in the power of its lord. There can be no question amid such conditions as to the place of the town in the Norman system. It was geographically at the foot of the castle, and politically at the foot of the castle's lord. The lord of the cities and towns of England was the king; and in this very significant fact I see, not a sign of the ancient importance of cities and towns as most historians have suggested, but a sign of their new importance, a sign that the cities and towns were definitely placed under the sovereignty of the king — were definitely, in fact for the first time, integral parts of the English state. The English state was, in fact, formed.

CHAPTER VI

THE position of London during the Norman period can best be understood by noting, in the first place, her position at the last great fight of the Saxons for England — that terrible and magnificent battle of Hastings of which everybody knows.

London had claimed, and obtained her claim, to form the guard of the English king and of his standard.[1] How well the city carried out her trust is shown by the records of the slaughter and by the wounds which the leader of the Londoners, Ansgar the sheriff, bore back to his home, among the few, the very few, who escaped that fatal day, owing to the simple fact that he was not wounded enough to die. The next step was a constitutional step. Harold, the king, was dead, and the throne thus vacant must be filled. London gave no thought to William, conqueror though he was. The witan which assembled within its walls on that woeful October day included the citizens of London and the shipmen, the "butscarls," as Florence of Worcester styles them, and they chose Eadgar the Ætheling, the grandson of Eadmund Ironside, to be king of the English. At the same

[1] Freeman, *Hist. Norm. Conq.* iii. 426.

time the Londoners declared for battle, not surrender.[1]

Nothing shows more clearly the independence of action by London than the events of these days. London declared for battle and defence; Northumberland and Mercia, led by the earls, Edwine and Morkere, declared for the defence of Northumberland and Mercia, and not of England. Mr Freeman calls this the betrayal and ruin of England within the walls of London.[2] It was so in effect no doubt. It was so with our ideas of the political state and of the municipal city. But behind this there is the large question which we have just investigated, and we know that the city of London was not so connected with the state as to voice the decision of the state at this crisis; and indeed that there was hardly a state —an English state—yet in existence which could be said to have a relationship one way or another with the city of London. London was acting against the conqueror independently; Wessex, Kent, and generally the southern parts of the country were in agreement with London, and so helped to form the national witan which assembled within her walls for deliberation; but Northumbria and Mercia thought differently, and acted differently—acted disastrously, if we like to think so, acted meanly and contemptibly, if we like to judge by modern ideas, but I do not think they acted traitorously. They could not be traitors to a state which was not formed. By the very facts as they are told us it is seen that London, equally with Northumbria and Mercia, equally with Kent and

[1] Freeman, *Hist. Norm. Conq.* iii. 530. [2] *Ibid.* iii. 532.

Wessex, acted according to its individual interests, and not according to the common interests of all the land. The earls Morkere and Edwine hoped to keep their northern kingdom in their own hands, hoped, perhaps, to free themselves from bonds which were beginning to be riveted by the growing development of the state. They certainly had no sympathy with London and its power. London probably had no sympathy with them—earls of the north which was almost an unknown territory to men of the south. In whatever way we look at the events we are bound to see that Northumbria and London were not in political accord.

It is thus that London appears at the dawn of the Norman era; it is thus that the elements of the future state appear. Not welded, perhaps not in definite relationship. And when London found out that the policy of resistance to William without the co-operation of Northumbria and Mercia was not practicable, it took another course—a course quite independent of what Northumbria might wish or might attempt to do, a course no doubt dictated by its own views of the situation, a course it had taken on previous occasions when Anglo-Saxons, when Danes, appeared as the sovereign power, but a course which would bring it into relationship for the first time with a veritable conqueror. I will tell the first steps of these events as far as possible in the language of Mr Freeman, because it will help me in my argument afterwards to use this distinguished historian's conclusions wherever I can agree with him.

The story is indeed a remarkable one. William

marching from Hastings to Romney, "took what vengeance he would for the slaughter of his men." Thence he went to Dover, the castle and town surrendering to him without a blow, and the citizens were dealt with leniently. As William was on his march from Dover to Canterbury messengers met him bearing the submission of that city. Winchester, within which was the widowed queen of Edward the Confessor, the inexplicably hostile sister of Harold, submitted without a blow. William should then have marched on to London. But "the men of London whose forefathers had beaten back Swegen and Cnut, whose brothers had died round the standard of Harold, were not men to surrender their mighty city, guarded by its broad river and its Roman walls, without at least meeting the invader in the field." William continued his march from Winchester along the old Roman road, directly on the great city. "He marched on, ravaging, burning, and slaughtering as he went, and drew near to the southern bank of the river," and sent on "before him a body of five hundred knights, whether simply to reconnoitre or in the hope of gaining something by a sudden attack. The citizens sallied; a skirmish followed; the English were beaten back within the walls; and the southern suburb of the city, Southwark, was given to the flames." But William did not even then venture any direct attack upon the city.

"He kept on the right bank of the Thames, harrying as he went, through Surrey, Hampshire, and Berkshire, till at Wallingford a ford and a bridge supplied safe and easy

means of crossing for his army. But he still did not march straight upon London. His course was to march on, keeping at some distance from the city, till the lands north and east of London should be as thoroughly wasted and subdued as the lands south of the Thames. He followed out this plan till he reached Berkhampstead, in Hertfordshire."

From Berkhampstead William negotiated with London. Ansgar is spoken of as being the soul of all the counsels taken by the defenders of London, and a tale is told of messages between Ansgar and William. One remarkable message reaches London that William should have the name of king [*solum rex vocitetur*], and all things in the kingdom should be ruled by Ansgar.[1] At last Ansgar's messenger is won over, and he

"goes back to London to enlarge on the might, the wisdom, the just rights, and the curious excellences of William. The invader is one whom it is on every ground hopeless to resist. His intentions are friendly; he offers peace to the city; wisdom dictates one course only, that of immediate submission to such a candidate for the kingdom. The people applaud; the senate approves; both orders—their distinct action is clearly marked—vote at once to forsake the cause of the young Ætheling, and to make their submission to the conquering duke."[2]

Both orders—that is the primates and optimates, and the commonalty, the two orders which we have seen in definite existence in London during Anglo-Saxon times. The whole story is most instructive, and this is because it does not belong to military

[1] This is quoted by Freeman from Guy of Amiens, 689.

[2] Freeman, *Hist. Norm. Conq.* iii. 542-547.

history. William did not thus approach London because it was a fortified city, but because it was an institution of the country of which he intended to be master, and an institution with which at the beginning it was well for him to be in alliance. He would have fought against the city defences in quite other fashion. He was, in fact, fighting against the city organisation, which he knew quite well to be one of the strongest political forces in the country.

Once more, then, London changed its overlord without being conquered. It accepted William because he was virtual king of the land, and as king of the land it agreed to his overlordship. As in Saxon times, so during the first dealings with the Norman, London accepted the generally accepted king and was not conquered. She followed her Saxon traditions. Within her walls was Eadgar elected king; just as his grandfather, Eadmund Ironside, had been elected. From without her walls came another sovereign, William the Norman; just as formerly had come another sovereign, Cnut the Dane. Faithful to Eadmund until his murder, London was faithful to Eadgar until it found he would not be true king; and then it accepted the king accepted by the country at large. The position is a remarkable one for a city to occupy. It tells us at once that it was not a position familiar to modern history; and there are other facts which illustrate the position which London assumed to herself at this important juncture. That the actual results upon London were different from those she expected is most certain, but before dealing with these results let me try to

illustrate the position from the events of the period. This can be done by comparing the action of London with the action of another famous city — Exeter. Thither had fled Harold's mother and Harold's sons, and two years after the great battle at Hastings Exeter is recorded by the chroniclers as having had no dealings whatever with the new king,[1] and all ranks of the city agreed to withstand the conqueror. This of itself is a great step, but there is even more than this. The city of Exeter endeavoured to rouse the men of the neighbouring shires, and called on their towns to enter into a league against the foreign conqueror. In this proceeding we are nearer than almost anything else in the history of this period, to direct evidence of the quasi-independent position of the cities under the Saxon rule, and in the record of the subsequent events the facts stand out clearly. William first of all sent to Exeter to demand that the citizens should take the oath of allegiance to him as their lawful king. The answer to this summons is a most memorable one. It ran thus, "We will take no oaths to the king; we will not receive him within our walls; but we are ready to pay him the tribute which we have been used to pay to former kings."[2]

Comparing this answer with William's message to London, we have a state of things which show both Exeter and London acting with political independence according to old custom; agreeing to acknowledge an imperial sovereignty in the monarch who had conquered

[1] Ordericus Vitalis 510A, quoted by Freeman, *Hist. Norm. Conq.* iv. 138.
[2] Freeman, *Hist. Norm. Conq.* iv. 146.

the rest of the land, but refusing to acknowledge an immediate sovereignty to him or to any king. And all this was not a new claim but founded upon ancient usage. The two cities, in fact, claimed their ancient position—a position not subordinate to the state, not municipal as a part of the state machinery, but civic as a relic of that older system dating from times when the cities of Britain were not parts of the political state.[1]

Of course Exeter failed to make good her case before the great Norman, but the fortunate record of her attempt satisfactorily explains what was the true position assumed by London at this time. London sought to gain her ends—the same ends as those of Exeter—by submission, but she was undoubtedly not prepared for the results of accepting William the Norman as king. If the acceptance was peaceable and by treaty, if it did not actually contain the words or the conception of conquerors and conquered, London soon learned that her position as unconquered city of Britain was for the first time going to be changed. William's action was precise. The submission of London made his title to the kingship secure, and he determined to be crowned at the mid-winter festival and at the old place of the crowning of English kings—Westminster, that is, and not London.

I shall return to the ceremony of crowning later on. His next step was to secure a military hold upon London, and I would note the significance of this act. For the first time London was to be in the

[1] It is worth while turning to Mr Freeman's account of Exeter in *English Towns and Districts*, 49-75, for a general summary of the position of this town.

position of a conquered city. William sent forward a portion of his army with orders to prepare a fortress in or near the city. Of course this fortress, hastily planned and hastily constructed, was not then of a permanent nature. It was indeed probably built of wood; but it no doubt occupied the site of the later fortress which we now know as the Tower of London.

The Tower of London is indeed the sign of the conqueror's might. He had encamped at Barking, and it was here no doubt that he drew up his plans for the military domination of London. He could there more easily comprehend that the eastern end of the city was the place from which to protect or overawe the city, for if necessary its trade and supplies from the water could be cut off. Displacing a section of the Roman wall, including two towers next to the Thames, says Mr Clark, he commenced his work by constructing at first a deep ditch and strong palisade.[1] This remained for some time the sole military work, but about twelve or fourteen years later, that is about 1080, there was begun the magnificent keep which has remained the central part of the whole group, and has caused the whole to pass under the name of "the Tower." For as originally constructed it was not a castle in the military sense. This word is derived from the Latin *castellum* or *castrum*, and meant the entire fortified camp or enclosure. The whole of London surrounded by its Roman walls was in a sense a castrum or castellum, except that it was much greater than a castrum—it was a city. But in no sense was the tower built on its eastern

[1] Clark, *Mediæval Military Architecture*, i. 205.

end, to the greatest extent outside the walled circuit, a part of the castrum of London. It was the massive built keep, rectangular in form and standing in no direct relationship to the castellum or castrum. Distinctly a Norman invention, the keep has had a curious history. Sometimes the keep was added to the castellum and sometimes the castellum was added to the keep,[1] and it is when we get the addition of these two elements that the modern castle, as we generally understand the term, is complete. Generally throughout England the keep was added to the castellum. The Normans adopted the ancient earthwork, British, Roman, or Saxon, which was already in a good defensive position, and on the mounds erected their great keeps.

This being the general style of castle-building in Britain the case of the Tower of London is at once seen to be quite different. There is no mound. There is no pre-existing fortress altered to the new ideas. There is simply a destruction of the Roman wall of the city at its eastern junction with the Thames, the enclosure of the required area with a ditch and palisade, and the erection thereon of the Norman keep. This is the White or so-called Cæsar's Tower of the great fortress. For some years it stood alone as the sign of the conqueror's hold upon London; and it was during this period that it received its name of Tower, which has never since left it. Let me show how gradually it assumed the more ordinary aspect of a castle, and we shall understand why its characteristic of a tower should have been the more

[1] Round, *Feudal England*, 333.

lasting. It was not until William Rufus reigned that a wall was built round the Tower enclosing what is now known as the inner ward. Stephen or Henry II. added the Wakefield Tower. The Bell Tower was built by Richard I., or John, as was the Devereux Tower. The Jewel Tower was probably the work of Henry III. The Bloody Tower is the gatehouse of the inner ward, and was added by Edward III. or Richard II. The Beauchamp Tower was the work of Edward III., so was Bowyer Tower and probably Broad Arrow Tower and Salt Tower. These are all the towers of the inner ward.

If we take a few notes as to events accompanying the building of the Tower we shall gain points of great constitutional significance. Thus in the year 1239 the Tower of London was strengthened, which the London citizens feared would tend to their injury; but on their making complaint on the matter to the king he replied that it was not done to their disgrace or danger. Two years later a very remarkable story is related which tells us more of the inner feelings of Londoners towards the Tower than could be expected. In 1241 a vision appeared to a certain priest, wherein an archprelate dressed in pontifical robes and carrying a cross in his hands came to the walls which the king had at that time built near the Tower of London, and after regarding them with a scowling look, struck them strongly and violently with the cross, saying: "Why do ye rebuild them?" whereupon the newly erected walls suddenly fell to the ground as if thrown down by an earthquake. The priest, frightened at the sight, said to a clerk who

appeared following the archprelate: "Who is this archbishop?" to which the clerk replied: "It is St Thomas the Martyr, a Londoner by birth, [*natione Londoniensis*] who considered that these walls were built as an insult and to the prejudice of the Londoners, and has therefore imparably destroyed them." The priest after having seen these things awoke from his sleep, rose from his bed, and in the dead silence of the night told his dream to all who were in the house. Early in the morning a report spread through the city of London that the walls built round the Tower on the construction of which the king had expended more than twelve thousand marks had fallen to pieces together with their bastions. The citizens of London were not sorry for it, for these walls were to them as a thorn in their eyes, and they had heard the taunts of the people who said that these walls had been built as an insult to them, and that if any one of them should dare to contend for the liberty of the city, he would be shut up in them and consigned to imprisonment, and in order that if several were imprisoned they might be confined in several different prisons a great number of cells were constructed in them apart from one another. And then in 1261 the king shut himself up in the Tower of London, and hired a number of workmen to repair and fortify the said Tower in the parts most favourable for defence, and, moreover, ordered the gates round the city of London to be strengthened by locks and bars.[1]

These building traditions and records would be

[1] Mathew Paris, *Chronica Majora* (Rolls Series), iv. 93-94.

valuable if they stood by themselves. They show that the citizens of thirteenth-century London looked upon the Tower as their enemy, not their protector, and we may surmise that this was as much from the constitutional side as from the personal. This surmise is strangely confirmed when we turn to constitutional documents for evidence of the position of the Tower in constitutional usage.

The Tower of London was not only a military fortress, it was, so far as Norman London is concerned, a place of constitutional importance, and thus affords an exceptionally instructive element in the history of London as an institution. The facts are all set down in the ancient rules of the city governing the conduct of the citizens in their relationship to the Tower as a seat of the king's justice. Upon the day on which the pleas of the Crown were held, the citizens met at Barking Church and proceeded to the Tower in solemn array, and by

"sanction of the common council of the city there should be sent from Berkynecherche six or more of the more serious honourable and discreet barons of the city who are to enter the Tower for the purpose of saluting and welcoming his lordship the king, his council, and his justiciars, on behalf of the city; begging of them that if it so please his lordship the king, they may safely appear before them in the said Tower, saving all their liberties and customs unto the Mayor and all other citizens."[1]

Another rule is still more indicative of the attitude of the citizen towards the Tower.

"By common assent of the city injunctions should be given to the two Aldermen whose wards are nearest to the Tower

[1] *Liber Albus*, and Riley's translation, 47.

of London to the effect that upon the third day before the pleas of the crown are holden they must enter the Tower for the purpose of examining the benches in the great hall to see if they are sound; and if they should happen to be broken they must cause the same, at the costs and charges of the city, to be well and strongly repaired. In like manner also they must have a strong bench made in the middle of the hall with seats for three, the same to stand in the middle of the hall opposite the great seat of his lordship the king; and upon this the Mayor and Barons of the city are to be seated when making answer unto his lordship the king and his justiciars as to matters which pertain unto the crown."

And a little later, under Henry III., it is recorded that

"it should be known that it was conceded unto the barons of London that so soon as they should begin to plead they should have their own porter without the gate of the Tower of London; and the porter of his lordship the king was to be within such gate; and in like manner they were to have their own usher without the door of the hall, where they were to plead for the purpose of introducing the barons and others of the city who should have to plead, and of whom he should have knowledge; and also they were to have their own serjeants with their wands, and no serjeant on part of his lordship the king was in any way to interfere before the justiciars, in so far as the office of serjeant was concerned."[1]

In these regulations we cannot but recognise the citizens of London trying to regain, under Norman rule, some degree of independence of control which the Tower and its rights symbolised. The very minuteness of the concessions testify to their importance. The Tower was wholly the king's. It

[1] *Liber Albus*, and Riley's translation, 53, 67.

was not in the city of London geographically, nor within its jurisdiction. London was not a unity of castle and town, the castle's lord and the lord's citizens, as in other places where the Norman castle had been erected. From the first it was divided off from the castle. The Tower of London was the king's, was in the king's territory, was outside the city territory. The city of London was the citizens' city, was within citizen walls, was adjoining to but not otherwise connected with the Tower. When the citizens had, therefore, for legal purposes, to attend at the Tower, they to some extent controlled and safeguarded the proceedings. Of a truth the old spirit of the Londoners lived on under the new order of things; but it had to be directed, not to the preservation of old rights and privileges, but to the destruction of newly exercised powers by the imperial sovereign. Accustomed to their own governance, they fought hard against governance from without, and the record of this fight is in keeping with earlier conditions.

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CHAPTER VII

We come upon the charters of London suddenly. They do not crop up in Saxon times, gradually developing into form. There are no Saxon charters to towns,[1] and it was only after William had placed his iron hold upon London, that the first charter to the city appears. It is addressed to the same chiefs of the city as other documents prove to have been the chiefs in Saxon times; it refers back to the freedom of King Edward's days. But it was issued by King William the Conqueror in the hour of his victory. There are three pregnant facts by which it must be judged:

[1] The so-called charters to towns by Anglo-Saxon kings are most instructive documents. Æthelbald of Mercia in 743-745 grants to Bishop Milred "all the dues of the two ships which shall be there demanded by the collectors in the hithe of London town." (Thorpe, *Diplomatarium Anglicum*, 29.) This is apparently an interception by the king of dues collected at London. Æthelstan's charter to Malmesbury is not genuine, though I attach considerable importance to the reference in it to the rhyming formula which is part of the ceremony of allotting the common lands. See Mr T. Martin's preface to *Registrum Malmesburiense*, vol. iii. p. xliii., and my note of it in *Village Community*, 191. There is a rhyming charter to Beverley (Kemble, *Cod. Dip.* i. Nos. ccclix. and ccclx.) which is spurious, and Mr Earle gives other specimens in his *Land Charters and Other Saxonic Documents*, 435-440. I, however, agree with Mr Green that though the present forms are not authentic charter grants, they do represent the memory of such grants. (*Conquest of England*, 222.)

(1) Its address to the bishop, portreeve, and burghers.
(2) Its reference back to Anglo-Saxon times.
(3) Its issue by King William.

The words of this precious document are known well enough, but they bear repeating as many times as they are referred to for historical purposes.

"William, king, greets William, bishop, and Gosfrith portreeve, and all the burghers within London, French and English, friendly; and I do you to wit that I will that ye be all law worthy that were in King Edward's day. And I will that every child be his father's heir after his father's day. And I will not endure that any man offer any wrong to you. God keep you."

First must be noted that the charter is addressed to "William the bishop, and Gosfrith the portreeve" —the same governing authorities, therefore, bishop and reeve, who in the reign of Æthelstan passed laws for themselves. William's charter and the London code of Æhelstan's reign may well be compared. The one is a code of laws passed by the citizens for their own good and governance, the other is addressed by the king, the sovereign *ego* to the representatives of the city. The subordination of the bishop and the portreeve is conveyed in this document. The governing authorities of the city had to admit a higher governing authority still, and this is an entirely new constitutional factor in the history of London, from the time she had been released from the dominion of the Roman empire.

The whole significance of the charter is contained

in one single clause: "I will that ye be all law worthy that were in King Edward's day." What does this mean? Whatever it means, it is by the new king's will, not by the ancient rights of the city, that the burghers of London are held to be law worthy—a will which had not been so expressed in London before this charter, a will which was not mere formality because it can never be lost sight of again. Not only was the domination of the city being kept to the fore by the construction of the famous keep of the future Tower, but by the constitution of the sovereign authority as part of the city governance.

Well, then, by the will of the king, the burghers of the king were to be "law-worthy." It is worth while to refer to what this expression meant in that age. Men in those days were spoken of as "moot-worthy," "fyrd-worthy," and "fold-worthy."[1] These expressions have not the limited meaning of our term "worthy," but imply the possession of some right or the doing of some duty. What Londoners received at the will of the conqueror, therefore, was the grant of law; and when we ask ourselves what this law was that was granted to them, the only possible answer is, their own—the law by which they were then being governed. There is then much significance in the fact of there being a charter at all. The citizens did not need it in order to govern themselves, for they had governed themselves for centuries without any such formality. Why then was it issued? The king needed it in order to emphasize the fact of sovereignty — the dictum that what the sovereign

[1] Earle, *Land Charters*, 343; Kemble, *Cod. Dip.* iv. No. dcccliii.

permits he commands; in order to show that every right privilege and custom were nominally, at all events, derived from the sovereign. This, then, is the general significance of the first charter of the City of London. It is not a sign of the city's greatness and power; it is a sign of its being brought within the jurisdiction of the sovereign, of its being made an integral portion of the state, of an entirely new phase in its history. Historians have accustomed us to look upon the first charter of the city of London as the earliest sign of the city's importance. It has been magnified into a sort of municipal *Magna Carta;* it has been glorified as the tangible proof of even William the Conqueror's respect for the great city. It is simply the first sign of its being welded into a state system of government, to which hitherto it had not conformed. The city's importance in the future, after the grant of the charter, was to be of a character different from what it had been in the past. It was not to be so independent as hitherto; but it was to become the capital city of a newly formed state of England, and finally, of course, of the great British empire. I do not of course say that the new position is not a greater one than the old position; better to be the capital city of mediæval England, of the later-formed United Kingdom, of the modern empire, than the quasi-independent city of a half-formed state. But this destiny was not unfolded when William issued the new-fangled thing known as his charter. London was then for the first time since its Roman days definitely subject to an external sovereign power, keeping its own laws

and system of government by express command of the sovereign.

The charter itself is so general in its terms, so sweeping and comprehensive, that it does not seem to disturb the old theory of city government, whereby the ancient law of the Londoners, known only to the Londoners, and observed only by the Londoners, was to have full play. But indeed this is not so. The simple charter of King William did not settle the constitution of London. It was to be followed by other charters, and we can easily detect in the gradual extension of grants a corresponding encroachment upon city law and the true significance of what the charter meant.

The next charter was that of Henry I. It contains fifteen clauses, and is a wholly different document from that of William. The question is, what does this difference mean? Are the grants of Henry's charters absolutely new privileges, not formerly belonging to the citizens, or are they simply legalising and bringing under the direct sovereignty of the Norman king privileges and rights which were held by the Londoners from ancient times? In one case it is certain that ancient rights were being legalised:—

"Also that the citizens of London shall have their grounds for hunting as well and as fully as their ancestors had: namely in Chiltre [the Chiltern district of Oxfordshire and Buckinghamshire], Middlesex, and Surrey."[1]

This is no new grant. The remaining clauses are rather protections than privileges—saving rights to

[1] § 13. See Round, *Geoffrey of Mandeville*, 369.

the citizens against the Norman system of government—the citizens shall not plead without the walls, shall be quit of scot and lot, and Danegeld, and murder, that is payments for these purposes, shall purge themselves by the oaths of their fellow-citizens, shall have their lands and securities and debts within and without the city, shall have their sokes and all their customs, and shall not have any one forced upon them against their will. All these are protections against encroachments which had been taking place under William the Conqueror and William Rufus. But clause 5 and clause 11 seem new.

"All men of London shall be quit and free, and all their goods throughout all England, and the sea-ports of the passage, lastage, and all other customs."

This might be considered as clearly a privilege, which only a sovereign who held, not only the city thus privileged, but also the other cities who had to allow the privilege, under his sovereignty. And yet when we come to consider how this privilege was to be enforced, we have doubt whether Henry I. was not merely granting formally what the citizens already possessed actually. The sanction to these privileges from other towns was:

"that if any person shall take toll or custom from the men of London, the citizens of London in the city shall take from the borough or vill, where such toll or custom shall have been taken, as much as such men of London shall have given for toll, and have received in damage therefrom."

This is not the legal force of sovereignty to back up

the grant of the sovereign. It is simply that London and other towns may tax each other, and each others' goods to the extent they deem wise or necessary for their purposes—in other words, London and the chief towns were acting on their own account in matters of tariff, were forming agreements amongst themselves, an almost incredible state of things as state law of the English type, but known to us, as we have already seen, as the ordinary city law of the Roman period. There is enough, therefore, to suggest that the charters were in this respect only gradually bringing into Norman sovereign law, London customs and practices, which had hitherto known no sovereign law.

Comparing this charter with William's famous first charter, we shall learn some instructive facts. The first charter of William granted to all Londoners their existing laws—with one stroke of the pen transferred these laws from their immemorial resting-place among the traditional rights and system of government belonging to London to their new source of life, the will of the king—transferred them, that is to say, from their home in the city to their new home in the state. William's *en bloc* sort of grant was too obviously the result of political conditions which called forth other forces than that of constitutional law, the forces which had to meet the fitful outbreaks of the distressed Saxons, as in turn each part of the country felt the conqueror's grasp tightening upon its very vitals, the forces which had to fight the last of the Saxon heroes, Hereward, in his gallant stand in the Cambridgeshire fens. The generality of the terms

of William's charter implied that all the laws of the Londoners were derived from the king, but the very extent of this sweeping terminology lessened the potency of the royal sanction. Working through the reign of the Conqueror and of William Rufus, the force of the sovereign grant had almost spent itself. Normans were becoming Londoners, and thought more of the actual rights of Londoners than of the asserted sovereign grant. Accordingly we find the next statesmanlike king, Henry I., beginning a new stage in the history of charter grants. No longer a sweeping grant of everything, but a specific grant of certain things. And each successive charter from this is an extension of specific grants. It is clear that the specific grants by Henry I. were not enrolled in his first charter because the Londoners were losing their rights. I cannot myself detect any evidence that there was a fear of them losing their rights. What I think was happening was that the crown authority was discovering the value of these rights, and only gradually discovering their value; and it would not do to allow rights of value to rest on any other basis than that of the sovereign will. When Henry I. perceived that Londoners were exercising their ancient rights of hunting in the surrounding territory, he saw it was a valuable right, and made it a grant from sovereign authority to the citizens: when he perceived that Londoners claimed the right of being free of toll, and enforced the right by counter tollage upon other cities, he saw it was a valuable right, and so made it a grant from sovereign authority to the citizens. This process was a very potent

political force. It brought into the realm of Norman legislation rights and powers which were hitherto unknown to the Norman law, and thus Norman legislative law working through the charters gradually absorbed the whole of the municipal rights and privileges of the English towns and cities.

This explanation shows how important it is to consider the gradual extension of the charter grants. It means the gradual overtaking of the municipal law by the state law. I cannot explain every step in this process through all the reigns of the Norman sovereigns, but I will illustrate my contention by such examples as will serve to show how real the process was to Londoners of the Norman period.

Henry II.'s charter contains practically the same clauses as that of Henry I., but there was a tightening of the reins. Henry I. had said that "the citizens of London shall not plead without the walls of the city in any plea." Henry II. introduced the significant exception "as to tenures held without the city," whereby the citizens were brought more under the general law of the land, and their own particular law was curtailed. Here is a forcible example of the constitutional results of charter grants. Once a right was made the subject of a grant, it was brought within the ken, the scrutinising ken, of the governing authorities, and on occasion it could be altered. Again, Henry I. had granted that the citizens could choose their own sheriff. Henry II. made no such grant, and indeed kept the appointment of sheriff in his own hands, and the

"fact that the sheriffs of London and Middlesex were under

Henry II. and Richard I. appointed throughout by the crown, must compel our historians to reconsider the independent position they have assigned to the city at that early period."[1]

Ansgar, who fought at Hastings, was not appointed by the crown, and that his successors in title should have been so appointed is expressive testimony to the changed state of things.

Richard's charter contains no clause dealing with new matters. John's first charter contains nothing new, but the second restores the appointment of sheriff into the hands of the citizens, while his fifth charter is the famous grant of a mayor, entered as follows in the city records:—

"That the barons of the city of London shall choose for themselves each year a mayor from among themselves, who shall be a trusty man, discreet and proper, provided always that when so elected he shall be presented unto his lordship the king, or in the king's absence unto his justiciar."[2]

"Know ye," are the words of this famous charter,

"that we have granted, and by this our present writing confirmed to our barons of our city of London, that they may choose to themselves every year a mayor, who to us may be faithful, discreet, and fit for government of the city, so as, when he shall be chosen, to be presented to us, or our justiciar (if we shall not be present); and he shall swear to be faithful to us; and that it shall be lawful to them at the end of the year to amove him and substitute another if they will, or the same to retain, so as he be presented to us, or our justice, if we shall not be present."

Now about this grant of an elected municipal

[1] Round, *Geoffrey de Mandeville*, 372.
[2] *Liber Albus*, i. 134, and Riley's translation, 119.

officer, the mayor, there has been much controversy, and there is much interest—especially from the point of view which I have been considering throughout these pages.

The first point of importance is that the charter of King John, which is the first known grant of the mayoralty, is not the first charter which mentions the mayor. The fourth charter of this king, dated 20th March 1202, or thirteen years before the fifth charter which granted the mayoralty, alludes to the mayor. "Know ye," says the charter, "that we, at the request of our mayor and citizens of London, have granted," etc. The grant was a very insignificant matter, merely that the guild of weavers should not be in the city of London. But this casual mention of the mayor and citizens shows that before the grant of the mayoralty formally by the fifth charter, it existed *de facto*. Further, Henry Fitzalwyne is spoken of as mayor of London so early as 1189, as the very first entry in the *Chronicles of the Mayors and Sheriffs of London* informs us.[1] Here again we are face to face with the ordinary process of charter law, the process by which the sovereign law gradually absorbed and overtook municipal law, proceeded to grant what already existed, but which had become of importance, and was affecting the polity of the age.

This question of the mayoralty in the history of London has not escaped notice by our chief historians, but it has been curiously treated. It has been thought that there were earlier charters grant-

[1] *Liber De Antiq. Leg.* 1. Mr Round says the earliest date for the mention of the Mayor is 1193, *Commune of London*, 225.

ing the mayoralty, which charters and all reference to them have been lost. Let me, however, refer to a few contemporary accounts of proceedings in London at this juncture, and I think many of the difficulties will vanish.

Walter of Coventry, Roger of Hoveden, and Benedict of Peterborough, three contemporary chroniclers, describe the events of 1189-1191 as follows:

"The Count of Mortagne [*i.e.* Prince John, who was acting for himself during the absence of his brother Richard Cœur de Lion in the Holy Land] and the Archbishop of Rouen and the king's other justiciaries granted to the citizens of London [*concesserunt civibus Londoniarum*] to have their commune [*habere communam suam*] and the Count of Mortagne and the Archbishop of Rouen, and almost all the bishops and earls and barons of the realm swore that they would most firmly maintain it [*communam illam*] so long as it should please the king."

Ralph de Diceto, another contemporary chronicler, says "all the before mentioned magnates swore that they would maintain the commune of London." Giraldus Cambrensis, another contemporary, says that "all the citizens having assembled as a body, the commune was granted to them, and was sworn to by all"; and finally Richard of Devizes, another contemporary, says:

"On that very day [8th October 1191] was granted and instituted [*concessa est et instituta*] the commune of the Londoners [*communia Londoniensium*], and the magnates of the whole realm and even the bishops of the province itself are compelled to swear to it. London learnt now for the

first time in obtaining the commune that the realm had no king, for neither Richard nor his father and predecessor Henry would ever have allowed this to be done even for a thousand thousand marks of silver. How great are the evils which spring from a commune may be understood from the common saying—it puffs up the community with arrogance and frightens the kings."

All these statements must be read carefully to understand their full import. The commune here spoken of was undoubtedly the right of common government by themselves — the right of legal recognition as a community by the laws of the land. If London was to be broken into by the independent sokes granted to Norman lords, and presently we shall see how this is, common government and common action were almost impossible. It was the restoration of common government which the citizens claimed at the hands of the traitor prince, John, Count of Mortagne, and this was what they received. It was no new thing to the Londoners, but their old system before Norman sovereigns had undermined it. It was what neither Richard, the absent king, nor Henry, the late king, would have granted for a million crowns, and it was a saying among the citizens of this day that "come what may, the Londoners should have no king but their mayor."[1] They now had their aspirations confirmed, for the first mayor, Henry Fitzalwyne, elected as we have seen in 1189, two years before the concession by John, continued mayor until his death, at which time the citizens had obtained by charter the grant of annual election of their mayor.

[1] Stubbs, *Const. Hist.* i. 630.

It is important to note that all these transactions did not produce a charter. Whatever John, Count of Mortagne, conceded to the Londoners in 1191 was not put into charter form, and I do not agree with those authorities, as, for instance, the late distinguished scholar, Henry Charles Coote, who claim that the charter was granted and is lost. Viewed in the light of the researches we have been able to make regarding London, a charter was not necessary, nay, was not desired. In all these transactions it is to be noted that the citizens of London were active in demanding their right of commune. They assembled in a body to demand it. Their popular saying, probably as old as the date of William's first charter, kept alive their ancient position of quasi-sovereignty with the king of the land, and the significance of this cannot be overstated. It was, therefore, the citizens' demand that was the keynote to the position, and if my reading of the meaning of the charters is correct, they would not seek for this demand to be put into the category of chartered rights, they would rather seek to keep it in the same class as their other ancient rights — rights which were never chartered, but depended upon traditional custom and usage, upon city or municipal law, in fact, and not upon sovereign or state law.

Noting this important break in the process of charter granting we will now turn to the charters granted by John, Henry III., and Edward I. They all seem to have been confined to grants of old rights, leaving the citizens with a large amount of local law and custom by which to conduct their own affairs,

but they were leading slowly and surely to other ideas. The reign of Edward the First was one of the greatest importance to England. Edward was the greatest of the Plantagenet kings. He was, among other things, a great law-giver, and men in his reign turned to the reform—the necessary reform—of the laws in a fashion that had never been attempted before. It is not my intention to touch upon these matters, even if I had the time and the knowledge. All I am anxious to say is, that the national law was being studied, reformed, and codified to some extent, and that schools of law, turning to the Roman codes and treatises for inspiration, had sprung up and were influencing the governing authorities of the nation. State government was in future to be more thorough than ever before. Anomalies that existed hitherto were not to exist any longer. Ancient rights were not to interfere with state government.

That the first effect upon the city of London of these changes in the theory and study of government functions should have operated by way of charter is to my mind most important. It does more than anything else to confirm my view of the position of the charters as instruments of the sovereign power and authority rather than as concessions to the citizens. The cities and boroughs could have gone on without them, but the sovereign authority would not have it so. Government in the cities and boroughs went on unnoticed by the sovereign authority so long as it did not prominently assert itself either by way of disaster to the city, or by way of conflict with the crown. Little by little the charters were encroaching

upon and absorbing municipal laws, making them into sovereign charter law. But we have hitherto had no interference with the city system of government. Whatever it was, and it must have been important and minute, it was unknown to the state law. But after the great development of state government under Edward I. a new era set in. In London it is evidenced in the very first charter of King Edward II. This important document says:

"Know ye that whereas our beloved and faithful the mayor and aldermen and the other citizens of our city of London had lately ordained and appointed among themselves for the bettering of the same city, and for the common benefit of such as dwell in that city, and resort to the same, certain things to be in the same city perpetually observed, and had instantly besought us that we would take care to accept and confirm the same, we having seen certain letters, patentwise, signed with the common seal of that city and the seal of the office of the mayoralty of that city, upon the premises, and to us exhibited have caused certain articles to be chosen out of the foresaid letters and caused them in some things to be corrected as they are underneath inserted . . . . which articles as they are above expressed and the matters contained in the same we accept approve and ratify."

This is a distinct and unquestioned departure in the style and substance of the charters. The claim of the king is to approve of the laws passed by the citizens. The charter says the citizens themselves desired this approval, but this is, I suspect, a constitutional formula rather than an actual fact. In any case these rules of the citizens were seized hold of by the charter, and thus became state law. But all the time the citizens were administering codes of

municipal law, unsanctioned by the state, not seized hold of by charters, and that the charter of the king absorbed this particular code, is to my mind due to the new activity of the state in getting hold of all new municipal laws.

I will shortly state the nature of the several clauses of this early constitution of London:

(1) The mayor to be elected annually.
(3) Sheriffs to appoint two clerks and two serjeants.
(4) Mayor to hold no other office belonging to the city.
(5) Aldermen to be elected every year, those retiring not to be re-elected.
(6) Tallages to be assessed by men of the wards, and delivered into the custody of four honest men, commoners of the city.
(7) Strangers to be admitted into the freedom of the city in the husting.
(8) Annual enquiry as to merchandise exercised in the city by freeman.
(9) Scot and lot to be paid by freeman.
(10) Non-resident freeman to pay scot and lot for their goods.
(11) Common seal to be in the custody of two aldermen and two commoners.
(12) Weights and scales to be in the custody of honest and sufficient men of the city.
(13) Appointment of sheriffs deputies.
(14) Non-freemen not to sell by retail.
(15) Brokers to be elected by merchants.
(16) Non-freemen to be partakers of the contingent burdens of the city
(17) Bridge to be kept by bridge-masters.
(18) Common serjeant, common clerk, and chamberlain to be chosen by the commonalty.
(19) Fees of the mayor, recorder, etc.
(20) Aldermen to be taxed as other citizen

I pass on to the most effective of all charter grants, the most effective power exercised by the sovereign, namely, the great event of formal incorporation. Let me first explain what incorporation means. A group of people agreeing to act together, and to share burdens together can do this in either of two ways. It can elect a representative who is trustee for the group, who therefore is the legal person responsible for the acts of the group, owner of the property of the group, answerable for the penalties imposed upon the group; or it can itself, as a group, become a legal person—*persona ficta.*

The method by which a group of persons agreeing to act together and share burdens together can do these things, so as to be square with the laws of the state which do not recognise groups but only individuals, is to consider themselves as one, to band their common interests and common burdens so closely as to become one person in the eye of the law. This group of persons which becomes one person is a corporate body. It acts by agreement, generally by the voice of the majority, and whatever it decides to do, or not to do, becomes a single definite action. It is not under the direction of one head; it acts for itself, and presents to the outside world but one action.

Now it will be remembered that over and over again we have had to deal with groups of persons in this enquiry. It will be remembered how I have described that the Saxon organisation was based upon the tribal system—a system which made blood kinship the basis of society and of law; which recognised not

individual persons, but only heads of households; a system by which all individuals who by age, by reason of dependence, by reason of being bondsmen to the house father, or being a female, wife or daughter, were unrecognised by the Saxon government, unknown to the Saxon law, and which reduced them simply to so many legal cyphers responsible to no one but the head of the family, responsible for no act or crime but to the head of the family. It will be remembered in particular how I pointed out that the Londoners of Æthelstan's time had to create new laws in order to proceed against the kin, that is a group of persons not resolvable into individuals each answerable to the law, but consisting of individuals each answerable to his kinship group. All this, and whatever of it survived in law and custom was inconsistent with the Norman conception of the state. The new state was to be a country governed by a sovereign to whom every individual was a subject answerable for all his acts. The new state was to be a political machine, not a tribal organisation; and William emphasized this in the great assembly he held at Sarum in 1086. Thither he summoned all his followers, or, as the Anglo-Saxon puts it, "all the landowning men of property there were over all England *whosoever men they were*," and made them swear oaths by fealty to him against all other men.[1] Let us note the significant words of the chronicle. The chronicler understood the old English system. Each individual was hitherto answerable to his tribal chief, not to the sovereign state. In future, by this new oath to King

[1] Jenks, *Law and Politics in the Middle Ages*, 93.

William, each individual was to be answerable to the sovereign state. William, by this great act, enlarged the boundary of the state and took in all men. "Henceforward," says Mr Jenks, "when he summoned his array he would have a direct claim, not only on his tenants in chief, but on their under vassals"—the old tribal organisation of the Saxon had given way, and the era of the political state of England had commenced. It took William twenty years of experience on English soil (1066 to 1086) to accomplish this. That he did accomplish so great a change marks, more than any other act, the greatness of the man's intellect and conception of things.

The Norman conditions represent a state comprised of all adult individuals living in the geographical unit under Norman control—never mind whether the person lives in a city, or is comprised in a family, city organisation and family organisation are broken into in order to reach the individual person—a state, resting on no artificially formed pillars but on the solid earth, soon to grow into the affections of the inhabitant people as mother earth or fatherland, and comprised of no larger units than the persons of the individual citizens.

It must be recognised what an enormous change was produced by this one act of William's. So long as groups of kin alone existed in the eye of the law and the individual did not exist, there was no difficulty in dealing with such groups as a unit. But when the kinship group was finally shattered and the individual was the only recognisable legal unit, difficulty was created when a number of persons again

desired to act collectively. They might in one case, to their advantage, agree to act together; they might in another case, to their disadvantage, rely upon their individuality and deny collective responsibility.

There is no case, so far as I know, among the institutions of the country during Norman times where such a difficulty as this actually occurred. Municipal bodies acted collectively in accordance with their ancient laws and customs, but Norman sovereigns wished to control this collective action.

They learnt that these corporate bodies possessed among other things vast possessions of land, such, for instance, as the Dean and Chapter of St Paul's owned in their manors round London as well as at greater distances in the country. Now the ownership of lands meant much to the state. There were military duties, and fiscal duties, and legal duties attachable to lands, and the question arose as to how all these things were to be arranged if the lord of the manor or the owner of the lands was not an individual, but a group of individuals who called themselves a Dean and Chapter of a cathedral, prior and wardens of a monastery, or what not. Who among this group of persons was responsible, if military duties, fiscal duties, or legal duties were not properly performed. Somebody must be. The Dean might deny responsibility, the members of the Chapter might deny it individually, and so responsibility might be first evaded and then finally repudiated. Besides this, lands held by these groups never descended to an heir. The holding was perpetual, and so various rights and dues upon the death of

an owner were evaded. This state of things clearly could not go on; and so in 1279 a statute was passed by which no religious persons were to acquire land.

This occurred in the reign of Edward I. But it is not until the reign of Richard II. that we are confronted with the legal problem presented by the holding of lands by the boroughs. Then the Government seem to have learnt for the first time that the boroughs were like the religious bodies, capable of holding lands; for the famous statute of 15 Richard II. (1391) seems to me not only to have taken a singularly long time in finding its place upon the Statute Book, but its wording implies the idea of a recent discovery. This act begins by reciting the former prohibitions against religious houses holding lands in perpetuity, extends that prohibition to guilds and fraternities, and afterwards adds that

"because mayors, bailiffs, and commons of cities, boroughs, and other towns which have a perpetual commonalty, and others which have offices perpetual, be as perpetual as people of religion, they shall not thenceforth purchase to them and to their commons and offices."

Here the significance surely lies in the frank recognition of the corporate character of perpetual succession and in the prohibition "thenceforth," implying that up to that time boroughs possessed or had attained lands, but were not to do so in the future without legal sanction—in other words, unless they were incorporated.

A great deal has been made of this question of incorporation, but I do not think it is altogether a

matter of law. We want to know how the law arose, and under what circumstances it was first applied. Knowing the date when the English municipalities were first incorporated, what we have to ascertain is what were the circumstances which led to this change of constitution. Now whatever were the influences which produced municipal boroughs on English soil, those influences were not Norman, and the municipal system was not Norman; and whatever were the influences which brought about legal incorporation, those influences were Norman, though the conception of incorporation came from the Roman law. Here, then, are two opposite influences at work, and here lies the key to the problem. The question is, how were these two opposite systems of polity—the English and the Roman—brought together? Fifteenth-century lawyers awake to the facts of Roman law; fifteenth-century monarchs, anxious to extend their sovereignty, combined to bring the English boroughs within the four corners of this legal conception; and they began the process, not by wholesale grants of incorporation to boroughs which were not incorporated, but by a disabling Act, to bring sharp home to them what incorporation might mean. Boroughs were made to understand that they could not acquire property unless they were incorporated.

I think this course is most significant. A formal grant of incorporation would not be thought much of by boroughs which had existed without it for centuries. Their understanding, therefore, was sharpened by the Act of Richard II., and incorporation became to them a legal necessity.

Still the process was slow. Legal incorporation was not granted as a privilege until 1439, when Kingston-upon-Hull and Plymouth were incorporated — the first by charter, the second by statute. Henry VI. also gave grants of incorporation to Ipswich, Southampton, Coventry, Northampton, Woodstock, Canterbury, Nottingham, and Tenterden. These grants, however, did not become general, for Norwich, Bristol, and the Cinque Ports received charters without incorporation from Edward IV., who, on the other hand, conferred this privilege on Rochester, Stamford, Ludlow, Grantham, Wenlock, Bewdley, and Kingston. The question of incorporation became further complicated by the contention of the boroughs about this period that, though not expressly incorporated, this right was to be presumed from the circumstances of their creation, and must, therefore, have been conferred by some grant beyond legal memory; and in the year 1466 it was actually held by the Court of Common Pleas that words of incorporation might be implied in a grant "if the king gave land in fee-farm to the good men of the town, . . . and so likewise where it was given to the burgesses, citizens, and commonality."[1] Thus, important as incorporation is from the legal point of view, we have the following condition of things to show that the law lagged behind the facts: (1) that in Richard II.'s reign English lawyers discovered that boroughs were practically corporations, from which position they were dislodged by special Act of Parliament; (2) that Edward IV. granted incorporation in a fashion so erratic as to

[1] Merewether and Stephens, *Hist. of Municipal Corporations*, 37-38.

show, at least, a want of appreciation of its importance by the boroughs; (3) that the boroughs claimed to be incorporated without a charter to that express effect.[1]

I hope, technical and difficult as all this is, that I have made it clear that the question of incorporation meant wholly a matter of land-holding. Other things followed in its train of course, but land-holding was the cause and the result aimed at by these statutes. The sovereign state wanted to control even more fully than it had done the municipal towns which were acting as corporate bodies in all sorts of ways, and held land even though they were not brought within the four corners of the law. The grouping of persons into municipal cities and boroughs was not within the ken of Norman law, and it was always trying to find out, so to speak, the legal person who represented the citizens, who could be punished or fined for the citizens—the legal person who held the citizens' common property, and who thus came within the ken of Norman law. It solved the difficulty by making the corporation itself a legal person, and by this means taking the largest power over the cities that it had yet exercised, for there could in future be no legal incorporation without the express sanction of the sovereign.

A few important facts need to be stated about the charters of the city of London. The corporation of London has no governing charter or Act of Parliament which really defines what its constitution is,

[1] I have quoted most of this passage from my *Principles of Local Government*, 79-82, where I have dealt with this important subject.

and by which the election, powers, and functions of the governing bodies and principal officers are regulated. It has a great body of charters, 120 in number, extending over a period of 670 years, from William the Conqueror to the reign of George II.; but there is no authoritative exposition of the multifarious customs, rights, and privileges claimed by the corporation of London. In the earlier charters, down to the reign of Edward IV., the corporation of London, or the body politic, whatever it may have been, is described in every variety of way. For example, "the port reeve and burgesses," "the citizens of London," "the Barons of London," "the Mayor and commonalty"—the title of mayor being first used, as we have already seen, in 1269. In the reign of Henry III., the corporation is referred to as "the Mayor and commonalty,"—and in some instances as "the Mayor and honest men."

The Court of Common Council is a legislative body, and has the power by ancient custom, confirmed by charter of 1341 (3rd June, 15 Edward III.),

"where any customs theretofore used and obtained proved hard or defective, or any matters newly arising within the city needed amendment, and no remedy had been previously provided, to apply and ordain a convenient remedy as often as it should seem expedient; so that the same were agreeable to good faith and reason, for the common advantage of the citizens, and other liege subjects sojourning with them, and useful to king and people."

The validity of acts of Common Council made under this power may of course be tried by the superior courts. But it is thus in the power of the

corporation of London from time to time to remodel its own constitution, and therefore, without access to the acts or ordinances of the Court of Common Council, it is never possible to tell with certainty what the precise constitution of the corporation is. And in spite of all the charters and their gradual encroachment upon the law and custom of the city, it is still usual for the city of London to plead its franchises, not as royal grants, or as deriving their force from legislative sanction, but as customs existing from time immemorial.[1]

We have now noted the growth of charter laws, and we have ascertained them to be the outward and visible sign of the encroachment of the sovereign power upon the municipal rights and customs. We have noted, too, the existence of laws unsanctioned by charters, unsanctioned so far as can be ascertained by any authority higher than the city itself. I think these laws reveal an important characteristic of the municipal life of mediæval times, namely, its characteristic independence of the state in all things where it is not directly brought into subjection by some express enactment or instrument of the state. In our days no municipal authority in the kingdom assumes a power except by express legislative grant. In mediæval days every municipal authority assumed what powers it chose, or at all events a great variety of powers, and legislation and charter were used to check this assumption rather than to increase it. The difference between these two conditions of the

[1] See Spence, *Equitable Jurisdiction of the Court of Chancery*, i. 97; Pulling, *Laws and Customs of London*, 4.

relationship of the state to the municipality is most marked, and it is impossible to ignore its significance in the history of London as a local institution. The charters stand for one thing; the customs, acts, and rules of the city stand for quite a different thing. It is this difference which is the important fact to note. It explains so clearly what the charters were to the city, and what they were not. It dislodges them from their pride of place as emblems of an inherent freedom, and allocates them to their true position as evidence that the freedom inherited from past centuries of citizen life was changing for a new citizenship, having its defined and subordinate position in a sovereign state.

CHAPTER VIII

THE relationship of London to the sovereign is not wholly contained in the two important phases of it which we have examined—the control by the Tower and the granting of the charters. There is a directly personal relationship which belongs to the constitutional history of London, as much as to the constitutional history of the kingdom. And this shows once more that London stands in an absolutely unique position among English institutions. Comparison with other cities, which has hitherto been useful now absolutely fails, for there is no other city with which comparison is possible.

William the Conqueror, after gaining the adhesion of the great city to his cause, did two very significant acts—he first secured the military domination of the city, and secondly, he was crowned at Westminster. Both acts, one at the east of London, the other at the west, were performed from outside the city, not within it. The one a hostile act, perhaps better performed from without: the other a political act which was following the custom of the country.

The political act of crowning at Westminster is full of significance. William, as sovereign monarch of England, would in the natural course have been crowned in the capital city of the country he had

made his own—would, one might have supposed, have taken this course in order to show his power and strength. But above all things William was a statesman. He lost no opportunity of gaining ground. It was the custom of the English kings to be crowned not in the city of London nor in any other city, but in the ancient place of crowning in the open fields. William as an English king, duly elected successor to the last English king now deceased, would be crowned according to the ancient rites and on the ancient spot. And so we get the continuity between Saxon and Norman times of the peculiar circumstances which have ever marked London's separateness from the state in all its early history.

But this continuity was only formal. It is interesting to note the mere adhesion to ancient custom, though the significance has all gone out of the act. It was the same sacred spot where English kings were crowned; it was the same ceremony; there was even the appeal to the assembled freemen, English and French, as to whether they would have this William for their king; there was, too, the answering shout of the English, "Aye, aye," which was given so lustily that the Normans thought it was the signal for attack, and forthwith rode through the crowd of English, cutting and hewing them down, while William, hearing the fearful din during the very act of being crowned, seemed to have feared that his day of reckoning had come. Mistaken as the Normans were by this great shout of acceptance, the English were more mistaken still in thinking that following the English custom of coronation meant

following the English law. There was an end of that at all events. The English custom was reduced to a mere formula, a mere performance of a regulated rite, and the Normans interpreted it as they willed. They willed according to their personal interests. Their personal interests were not necessarily the interests of the state.

I will discuss these affairs a little closely. They deserve it, for London is deeply concerned therein. The Norman conquest did not produce a settlement of the right of succession to the crown. No doubt at that time settlement by right could not be. Both William Rufus and Henry Beauclerk seized the crown to which their elder brother Robert should have succeeded if hereditary right had prevailed. In these cases a strong brother took the place of a weak one. Stephen, still more drastically, stepped into the vacant place by sheer force only. Hereditary right of the eldest was clearly not sufficiently established as a result of the Norman conquest to secure succession to the crown whatever might be the circumstances. At later dates, other kings, John, Henry IV., Richard III., Henry VII., William III., George I., were not kings by hereditary right. In all these cases there was some special reason, the personal villainy of the usurping monarch in causing the death of the rightful sovereign, the political conditions, or the popular demands, which brought about the position. But in the case of Stephen it was not an act of personal villainy, it was not political conditions or popular demands which settled that he was to reign over the newly formed English kingdom for nineteen years. He was

the grandson of William the Conqueror, but grandson through his mother Adeliza, daughter of the Conqueror, and not even the eldest grandson of this branch, for his elder brother Theobald lived and was worthy. Matilda, the daughter of the late king, Henry Beauclerk, claimed the throne as hereditary heir, and by the oaths of the barons, among whom was Stephen, Count of Blois, taken before her father's death. Thus if his two uncles, William Rufus and Henry Beauclerk, had set aside the principle of hereditary right as between brothers in one family, Stephen set it aside still more violently—in truth the obstacles to his claim as hereditary heir were overwhelming, and yet he not only claimed but obtained the crown and kept it during his life, though after severe struggles.

What then were King Stephen's claims and how were they enforced? This question is a large one, but it is worth attention.

In the first place, his only serious opponent was a woman. Never in feudal Europe had a woman reigned as monarch. There is a vague popular idea that the so-called Salic law forbade succession by a woman, but though this is not the case, it is a fact that a woman was not held to be fit to reign as monarch. Matilda, the daughter of Henry I., came nearest to success, for she was upheld by some of the great barons and by a considerable party in the state. But she never succeeded in her great ambition. Whether she would have done so had she been wiser in action is even doubtful. But that she was supported by arms against the king *de facto* is an

important consideration. Nobody took up arms on behalf of Arthur's sister, Eleanor of Brittany, when the grandson of Matilda, the heartless King John, had got rid of his nephew, the heir to the throne. No queen reigned, or was thought of as a possible monarch, until the break up of the feudal monarchy and the succession of the Tudor dignity introduced new ideas.

If, however, it was the feeling that a woman could not reign in person, there was not only no feeling against, but there are many examples in favour of, her being able to transmit the right to reign to her son. Thus Matilda's son, Henry II., reigned unquestioned by right of his mother, and Edward III. claimed the French throne by right of his mother, and in this claim there is more legal force according to the accepted doctrine of the age than is generally admitted by historians.

If Stephen was by right of his mother a possible heir to William the Conqueror's throne, he was also sister's son to the last reigning monarch, Henry I.; and sister's son was a very close relationship, according to the ideas of early times.[1] This ground of claim had already been put into operation in respect of the English throne by Stephen of Aumale, the son of William the Conqueror's sister, who tried to discrown William Rufus. It did Stephen, Count of Blois, good service in his claim to succeed Henry I.

Stephen, therefore, had in his favour that Matilda

[1] Tacitus, *Germ.* xx. Thus Withgar is stated to have been—"tum sanguinis propinquitate tum bellandi artibus, avunculo juxta carus. (William of Malmesbury, lib. i. § 16.)

was a woman, and that he was sister's son to the last king and daughter's son to the great Conqueror. He had against him that his elder brother, Theobald, was alive, and therefore held better claims on the self-same grounds. Against these better claims Stephen set his popularity with the English, among whom he had lived all his life, the evident partiality of the old king for him, and above all things his sudden dash for possession of the treasury and the crown, which caused his opponent the task of regaining possession and not of simply taking up the lapsed right.

Even this part of the events, however, has the sanction, or apparent sanction, of law. The accession of King Stephen was not a case of successful rebellion, or conquest, or dynastic quarrel. It was marked at each stage by undoubted even if curious and somewhat ancient legal conceptions. To his position in the reigning house, sister's son to the last monarch, daughter's son to the first monarch of the Norman house, there must be added his claim to be the chosen of the people, to be elected in point of fact. This conception of election in our English monarchy is an interesting factor upon which Freeman and Green among our historians have laid most stress. When political sovereignty first shows itself, says Sir Henry Maine, this sovereignty is constantly seen to reside not in an individual nor in any definite line of persons, but in a group of kinsmen, a house, a sept, or a clan.[1] This exactly meets Stephen's position. He belonged to the royal house, sept or clan, of the Normans. He was chosen therefrom to be king.

[1] *Early Law and Custom*, 44.

It has been necessary to go into these points of constitutional origins, because without them we cannot understand the position of London. And we have to ascertain why Stephen, able soldier and resolute man that he was, relied more upon constitutional usage than upon military success, threw over the crude methods of William and Henry, and adopted the formal methods of a constitution.

Now what are the facts? It is very clear that immediately following the conquest, and until after the reign of Henry I., London was not very powerful in the land. The Norman grip was upon her, and the Normans had not entered into her life—had not been absorbed by her, had not, in fact, become Londoners. Henry's rule had, however, altered many things, and it brought about a fusion of Normans and English in London. Elsewhere, the towns were for many years divided into two parts. Southampton had one section for the Normans and another for the English; so had Nottingham, each section of the town being governed by its own rules.

But in London the Normans, in grasping the power handed down from of old, succeeded to all the consequences of that power. They claimed to do things which the men of London in Saxon times had claimed. The evidence of the chronicles with reference to Stephen's succession is that the Londoners claimed the right of election, and I cannot but think that we have here a revival of the old claim under the new conditions. The new conditions are somewhat notable. London had accepted William the Conqueror as she had accepted other sovereigns of

the land — that is, as sovereign of a country in which London held a quasi-independence. But this acceptance of the Norman king had, as we have seen, worked differently from other cases. William had the instincts of a statesman, and his sovereignty was intended to become a state sovereignty, not a tribal sovereignty as the Saxon sovereignty had been. Accordingly London had to succumb under the visible domination of the Tower of London. William Rufus was a tyrant, pure and simple, and acted to London and to other places as such. There was no possibility of development or change under his rule. Henry Beauclerk was a statesman as great as his father, and far more liberally endowed. London progressed in that the Normans who had taken possession of her became Londoners. The fusion was remarkably quick. It was only possible by means of the peculiar constitution of London which was not the home of a race or of a people, not the defended burgh of the Anglo-Saxons, but the quasi-independent city with Roman traditions, with Roman, Celt, Saxon, Danish, and other foreign elements; and with commerce as the governing factor of life. This was a place in which to lose one's race and to take upon oneself a new order of things. And so under Henry I. the Normans became Londoners. They, indeed, obtained from that king a special clause in his charter to London—

"the churches and barons and citizens may have and hold quietly and in peace their sokes with all their customs, it being understood that the guests who shall be tarrying in the sokes shall pay customs to no other than him to whom such

soke shall belong, or to the officer whom he shall have there appointed."[1]

Here we have at once the sign and effect of the Norman grip upon London. They carved out for themselves little islands of jurisdiction which they governed unrestricted by any external control, except that of the king, and these sokes, as they were called, though encroachments upon the municipal organisation, helped to make the Norman sokemen Londoners.

When, therefore (to continue my statement of the conditions under which London acted in the matter of succession to the crown), a new sovereign, Stephen, Count of Blois, started up, set aside other representatives of the Norman house and stood upon ancient tribal rules of succession, it was necessary to enforce these rules by something more potent than an appeal to arms. Even victory would not make him king of the English. Accordingly an appeal was made to the formal act of election, and it is remarkable that as a result, London, and London only, was allowed to revive her old claim. Accustomed of old to have a strong position in the election of sovereign she put it forth with renewed vigour, with Normans to help her, when a sovereign candidate needed the act of election to help him get over his rather feeble title from other sources. This seems to me to be the true reading of these events. I do not think London claimed the right of choosing a king for all England—her right was that of accepting as her own sovereign

[1] *Liber Albus*, i. 129, § 9.

the king accepted by the rest of the country. But in Stephen's case the position was enormously strained, and the action adopted by London virtually, though not constitutionally, became an act of choosing a king for all England. The *Saxon Chronicle* says Stephen "came to London, and the London folk received him . . . and hallowed him king on midwinter day." Mr Green, relying on the Chronicle *Gesta Stephani*, has put into words, powerful in the story they tell, the political force of this act of the "London folk." First in the volume of proceedings of the Archæological Institute at London in 1866, and subsequently in slightly more guarded language in his *History of the English People*, Mr Green points out the significance of the action of London in the election of King Stephen:

"Neither baron nor prelate was present to constitute a national council, but the great city did not hesitate to take their place. The voice of her citizens had long been accepted as representative of the popular assent in the election of a king, but it marks the progress of English independence under Henry that London now claimed of itself the right of election. Undismayed by the absence of the hereditary counsellors of the crown, its 'Alderman and wise folk gathered together the folkmoot, and there providing at their own will for the good of the realm unanimously resolved to choose a king.' The solemn deliberation ended in the choice of Stephen."[1]

This, no doubt, was the political effect of the

[1] Stephen's charter of 1136 opens with the words, "Ego Stephanus Dei gratia assensu cleri et populi in regem Anglorum electus," and he alludes to his election in the passionate outburst against those who revolted against him in 1137, "cum me in regem elegerint cur me distituunt?" (William of Malmesbury, ii. 541, 544 (Roll's edit.).)

action taken by London on this occasion when the facts made it possible. It was, however, not the normal procedure, not the ancient position of London. In reviving the old claim to accept for herself a sovereign lord, London on this occasion had in effect chosen a king for the country.

Perhaps even more significant than the actual election of Stephen are the strange proceedings which resulted from the temporary success of Matilda after the capture of the king and her election to the throne. The clergy and the nobles assembled, and the legate delivered a great speech in favour of Matilda. These events are recorded by William of Malmesbury in a narrative which thus continues:

"When all present had either becomingly applauded his sentiments, or, by their silence, not contradicted them, he added: 'We have despatched messengers for the Londoners, who, from the importance of their city in England, are almost nobles, as it were (*Londonienses qui sunt quasi optimates pro magnitudine civitatis*) to meet us on this business; and have sent them a safe-conduct: and we trust they will not delay their arrival beyond to-morrow: wherefore let us give them indulgence till that time.' On the fourth day of the week the Londoners came; and being introduced to the council, urged their cause, so far as to say, that they were sent from the community (*a communione quam vocant Londoniarum*) as they call it, of London, not to contend, but to entreat that their lord the king might be liberated from captivity: that all the barons, who had long since been admitted to their fellowship (*qui in eorum communionem jamdudum recepti fuerant*) most earnestly solicited this of the lord legate and the archbishop, as well as of all the clergy who were present. The legate answered

them copiously and clearly: and, that their request might be the less complied with, the speech of the preceding day was repeated, with the addition, that it did not become the Londoners, who were considered as the chief people of England, in the light of nobles (*qui præcipui habebantur in Anglia sicut proceres*) to side with those persons who had deserted their lord in battle; by whose advice the king had dishonoured the holy church; and who, in fact, only appeared to favour the Londoners, that they might drain them of their money. In the meantime, a certain person, whose name, if I rightly remember, was Christian, a clerk belonging to the queen, as I heard, rose up, and held forth a paper to the legate. He having silently perused it, exalted his voice to the highest pitch, and said, that it was informal, and improper to be recited in so great an assembly, especially of dignified and religious persons. For, among other offensive and singular points, the signature of a person was affixed to it, who, in the preceding year at a similar council, had attacked the venerable bishops with opprobrious language. The legate thus baffling him, the clerk was not wanting to his mission, but, with notable confidence, read the letter in their hearing; of which this was the purport: 'The queen earnestly entreated the whole clergy assembled, and especially the bishop of Winchester, the brother of her lord, to restore the said lord to his kingdom, whom abandoned persons, and even such as were under homage to him, had cast into chains.' To this suggestion, the legate answered to the same effect as to the Londoners. These conferring together, declared, that they would relate the decree of the council to their townsmen (*convicaneis suis*) and give it their support as far as they were able. On the fifth day of the week the council broke up. . . . It was now a work of great difficulty to soothe the minds of the Londoners: for though these matters, as I have said, were agitated immediately after Easter, yet was it only a few days before the Nativity of St John that they would receive the empress. At that time great part of England readily submitted to

her government; her brother Robert was assiduously employed in promoting her dignity by every becoming method; kindly addressing the nobility, making many promises, and intimidating the adverse party, or even, by messengers, exhorting them to peace; and already restoring justice, and the law of the land, and tranquillity, throughout every district which favoured the empress; and it is sufficiently notorious that if his party had trusted to Robert's moderation and wisdom, it would not afterwards have experienced so melancholy a reverse. The lord legate, too, appeared of laudable fidelity in furthering the interests of the empress. But, behold, at the very moment when she imagined she should get possession of all England, everything was changed. The Londoners, ever suspicious and murmuring among themselves, now burst out into open expressions of hatred; and, as it is reported, even laid wait for their sovereign and her nobles. Aware of and escaping this plot, they gradually retired from the city, without tumult and in a certain military order. The empress was accompanied by the legate and David King of Scotland, the heroine's uncle, together with her brother Robert, who then, as at every other time, shared her fortune; and, in short, all her partizans to a man escaped in safety. The Londoners, learning their departure, flew to their residence and plundered everything which they had left in their haste."[1]

There is no necessity to dwell upon these proceedings. They show the remarkable position assumed by London, a position not due to its Norman history, but reflecting the more ancient position which it occupies in Anglo-Saxon history as a city with whom kings made compacts, to which the Londoners were always faithful. Stephen continued to do without any seeming break what Ælfred and Æthelstan and Eadmund had done, and for a time the Norman rule had lost its bearings.

[1] William of Malmesbury, anno 1141 (Roll's series, ii. 577).

This position, won from Stephen's necessities, did not cease with him. Throughout all the dynastic troubles London has ever been to the fore. She took part in the formal deposition of Richard II. She helped Henry IV. to the throne, and was ever faithful to Edward IV. Everybody must remember the remarkable scene depicted by Shakespeare in the election of Richard III., when the citizens gathered at Baynard's Castle and offered the Duke of Gloucester the throne. This scene, derived in the main from historical sources, is only a reflection of what had occurred with King Stephen. William of Malmesbury's narrative helps us to understand the scene with Richard. It is the last formal act of the city of London in choosing a sovereign. That it was so utterly formal, so obviously got up to serve a purpose, shows the ancient position claimed by London more completely than almost anything else. The position of the city under Richard III. had changed completely from what it was under Stephen, and the resort to the old formula, when it could be nothing but a formula, shows the strength of the original position.

I think this will suffice to explain how the customs connected with the coronation of the sovereign gradually sunk away into mere formalities, mere observance of custom, to be emphasized or belittled according to the circumstances by which each sovereign came into touch with them—a usurping sovereign like Stephen, or John, or Henry IV., or Richard III. would emphasize the element of election, an hereditary sovereign like Henry II., Edward I., and others would

minimise the element of election and accentuate the element of succession from previous sovereigns.

Though the city of London was thus connected with the sovereign through the ceremony of election, it was never the real seat of the sovereign government. Westminster, not London, was the place of crowning, the traditional place of crowning the English kings. It had become under the Confessor the palace and home of the sovereign. Rufus added to the glories of Westminster by building the hall we all love so well, and building it so as to cover the great stone, the king's bench, as it came to be called, upon which the English kings were by ancient custom raised to the throne. Here was another Norman innovation. Open-air ceremonies were not of their system. If the ancient stone was to retain its place in the coronation ceremony it must be roofed over and the new ceremony should be performed under more civilised conditions. The changes are always insidious. The Normans did not uproot English customs they only formalised and legalised them; and of course in the end they broke them up and transformed them. We have seen how this was so with the charters, and we see it again in the roofing over of the picturesque survival of the coronation place at the spot where the ceremony of election took place.

The dual position of London and Westminster as local institutions in relation to the state government is shown most clearly in one other way. When Henry III. consulted his Parliament before leaving the kingdom, he consulted, too, the London citizens. I must quote the record of these transactions because

they bear immediately upon the object I have in view.

"On the morrow of the Lord's ascension, on the 30th day of May [1252], namely, by precept of his lordship the king, the whole community of London was assembled at the churchyard at Westminster; where his lordship the king took leave of them, saying that he was about to cross over into Gascoigne; and gave orders that all persons in the city should meet together on the Sunday following at St Paul's Cross in the presence of those whom he should send thither and there make oath of fealty to Sir Edward, his son, and to his queen."

And again, in 1259,

"There was held a great and long Parliament, and his lordship the king being in the great Hall at Westminster, where many earls and barons and a countless multitude of people had met, caused the composition to be openly and distinctly read, that had been made by the barons as to amending the usages and laws of the realm. . . . And then his lordship the king took leave to cross over into France. . . . In the same year his lordship the king came to the Cross of Saint Paul's, a countless multitude of the city being there assembled in Folkmote, and took leave of the people to cross over, just as he had done before at Westminster."[1]

The formal assembly of London in folkmoot, the assembly at Westminster, the care of the king to deal with the city as with a separate constitutional unit, are all points which add considerably to the evidence from other sources of the independent position of London.

The position obtained for Westminster has never

[1] *Chronicles of the Mayors and Sheriffs of London*, 20, 45.

been lost, and the separation of the city of London from the constitutional seat of the state government has remained without change. There was but little tendency even to make the city a royal residence. The Tower as a fortress was not exactly a place of residence. The original building of Bridewell, according to Stow, was for a long time a palace of the kings, and Henry III. is said to have held his courts there. King John is said to have had a house in Cornhill, and Stow identifies the spot in the following passage:

"Pope's head tavern with other houses adjoining, strongly built of stone hath of old time been all in one, pertaining to some great estate or rather to the king of this realm as may be supposed both by the largeness thereof and by the arms . . . which were the whole arms of England before the reign of Edward III. . . . and are fair and largely graven in stone on the fore front towards the High Street."[1]

The spot is still to be identified by Pope's Head Alley, a footway from Cornhill to Lombard Street, and the inn alluded to by Stow has had a long and famous history. Tower Royal is another place identified by Stow as a palace of the king. King Stephen, he says, was there lodged. Edward III. granted it to his Queen Philippa, by whom it was used as a depository for her wardrobe. The queen extensively repaired, if she did not rebuild it, and the particulars of the works executed may still be seen in the original MS. accounts of the period. There is little evidence of royal occupation before that of Queen Philippa, and it was not called Tower Royal before her occupation. In Stow's time it had

[1] Stow, *Survey of London*, Thom's edit. 75.

been neglected and turned into stabling for the king's horses and is "now (1598) letten out to divers men and divided into tenements."[1] The bishop's palace near St Paul's was often used by the kings when occasion required. All these examples supply, I think, evidence of the fact that practically no permanent royal palace was ever situated within the walls of the city—the capital of the kingdom. The princes lodged there. John, Duke of Lancaster, had his house burned by the rebels in Richard II.'s reign; Richard, Duke of Gloucester, occupied Crosby Place; Henry, Prince of Wales, son of James I., perhaps occupied the house in Fleet Street.[2]

It cannot be that the meagre record of the kings of England living in the capital is altogether due to accident. Their great fortress was all that seemed to concern them in the city; their palace was outside the city, at Westminster. The history of London's long isolation from her immediate surroundings, which was due to the special causes already dwelt upon, is continued under Norman rule. This isolation had special constitutional significance in pre-Norman times. It meant then a sort of quasi-independence of the city and its government. Under Norman rule it meant much less. It was only the survival of ancient custom —custom too strong to be entirely swept away, but not strong enough to exert all its old force. It enables us of to-day to understand better pre-Norman London and the significant change that befell the city under Norman

[1] Stow, *op. cit.* 27, 92.

[2] This house was purchased by the London County Council in 1896, and a descriptive pamphlet has been published giving its history.

rule. We must be careful, however, not to read into mere formulæ the significance of original custom, though we are entitled to lay stress on the tenacity with which original custom lived on as survival, because unless it had been well grounded in the traditions of the citizens of London, unless it had once been a veritable part of their municipal life, it would have died out. All the custom that the kings of Norman rule conformed to, or tolerated, was once actual daily life to the Londoners. And I cannot help thinking that in the late Queen's reign we have seen perhaps the last stage in the decadence of this ancient custom. All will remember the last jubilee procession, and the special ceremonial which occurred at the spot where Temple Bar formerly stood. The ceremonial betokened the formal entry of Her Majesty into the city. When Temple Bar was there, it was the custom for the Queen on state occasions to formally ask permission to enter the city by ceremonially knocking at the outer door of the old gate. But this was only a custom transferred to Temple Bar from the older gate of the city, "Ludgate," which stood at the wall boundary. When Ludgate was in existence the bar at the bottom of the Strand "was only posts, rails, and a chain."[1] These were replaced by a house of timber erected across the street with a narrow gateway, and an entry on the south side of it under the house; and when this was destroyed by the fire in 1666, the Temple Bar which we have known was erected by Sir Christopher Wren in 1670-1672. Thus the growth of this bar to

[1] Strype, lib. iii. 278.

be considered one of the city gates was gradual, and it accumulated round it the former ceremonies which belonged to the real gate of the city, Ludgate. These ceremonies included not only the formal request for admission at the time of a ceremonial visit. On the death of every monarch the city used to close its gates, and admission had to be formally asked for before the new monarch could be proclaimed within her walls.[1] We cannot disassociate these customs from the higher constitutional customs just examined. They belong to the same order, and tell exactly the same story of the position of London in relation to the sovereign.

The position thus attained is strengthened by contrast with the constitutional organisation of Westminster itself. The earliest description of the boundary of Westminster occurs in a charter of King Eadgar, A.D. 951. It is as follows:

"First up from the Thames, along Merfleet to Pollen stock, so to Bullinga fen: afterwards from the fen, along the old ditch to Cowford. From Cowford up, along Tyburne to the broad military road: following the military road to the old stock of St Andrew's Church: then within London fen, proceeding south on Thames to mid stream; and along the stream by land and strand, to Merfleet."[2]

This description shows the boundaries to have started from the Thames at London. This would probably be a point west of the city wall at Ludgate, so as to exclude the fen formed from the Fleet. The western boundary of the Savoy would

[1] Toulmin Smith (*Government by Commission*, 332) records this interesting fact.

[2] Sir Henry Ellis in *Archæologia*, xxvi. 224.

probably be the Merfleet alluded to in the charter. Pollen stock may have been the termination of the high ground on which the monastery was placed. Bullinga fen is the ancient marsh adjoining Tothill, and later known as St George's Fields. The old ditch is King's Scholars Pond River. Cowford was no doubt at the point where the Tyburn stream joined the Thames. This stream formed its western boundary, separating it from the manor of Eia, which was between Chelsea and Kensington; it passed by the west side of Tothill fields, Buckingham House (almost to the level of the present palace structure), into the Green Park, and along White Horse Street, Bolton Row, Breton Mews, South Molton Lane, crossing Oxford Street opposite Stratford Place. The broad military way is Oxford Street. The boundary deflected to St Andrew's Church, and then joined the starting point at Merfleet.

In 1222 another description of the boundary appears on record. This is in a decree of that year for terminating the dispute between the abbey and the see of London. The western boundary is the same as in 951. The eastern is different. It is described to be "as the king's highway stretches towards London to the garden of St Giles' Hospital," which is the present boundary of that part of the city of Westminster to the east end of Oxford Street, and

"thence as the way beyond the said garden extends to the boundaries dividing Mersland and the parish of St Giles thence according to the separation of the gardens of Tholi and the monks of Westminster to the house of Simon the weaver, and from the house of the same Simon as the king's

highway extends towards Westminster to the rivulet Ulebrig running into the Thames."[1]

Ulebrig was Ivy Bridge in the Strand, at the end of the present Cecil Street.

These are the boundaries of the manorial jurisdiction given to the Abbey of Westminster, and the government was that of a manor, the Dean and Chapter appointing the steward who was the chief officer.

It was intended to be much more than merely abbey territory. Henry III. tried to make it exempt from the jurisdiction of the sheriffs of London and Middlesex.

"His Lordship the King requested them [the Corporation] to permit the Abbot of Westminster to enjoy the franchise which the King had granted him in Middlesex in exchange for other liberties which the citizens might of right demand. To which the citizens made answer that they could do nothing as to such matter without the consent of the whole community. . . . This subject was afterwards settled, it being decided that the Sheriffs of London may enter all vills and tenements which the Abbot holds in Middlesex, even unto the gate of his abbey."[2]

Subsequently it was given the privilege of a city, though its constitution was subordinated to the Dean and Chapter of the Abbey, and it was a city but in name. As Dean Stanley wrote some years ago:

"Whatever show of independence the city of Westminster still possesses, it owes to a reminiscence of the ancient

[1] Wharton, *Historia de Episcopis*, 1695, 252.
[2] *Chronicles of London*, 16, 61.

grandeur of the Abbey. The Dean is still the shadowy head of a shadowy corporation, and on the rare occasions of pageants which traverse the whole Metropolis the Dean with his High Steward and High Bailiff succeeds to the Lord Mayor at Temple Bar."[1]

These facts are sufficient for the present purpose. They show a system of government absolutely different from that of the city. The constitution of Westminster was based upon the English manorial system in its most complete form, untouched by outside influences. London was governed upon a system as unlike it as possible. The two systems were alongside of each other, but being drawn from different origins they developed in quite different fashion. We see in particular the lordship at the top of the Westminster system. We see in London the elected mayor, and we may well recall at this point the cry of the Londoners that they would have no lord but their mayor. This Westminster evidence shows too that the constitution of London was built upon the government of the "whole community," which not even the power and personal interest of Henry III. could put on one side, and it also shows by contrast what London would have become if its established form of government had not successfully resisted encroachment.

The separation of Westminster from the city—the seat of Government from the capital—emphasizes the action of the sovereign most markedly. It was always emphatically the action of an outside authority,

[1] *Memorials of Westminster Abbey*, 352. Westminster having been made one of the Metropolitan boroughs by the Act of 1899, has once again been granted the honorary title of city.

whether in friendliness or in enmity. This is chiefly shown in the hostile actions, and having already dealt with the friendly actions I will briefly note one or two examples of the kind of evidence produced from hostile action. It is unnecessary to dwell overlong on this point, because it contains elements not necessary to the subject before us, and I shall, therefore, only illustrate this particular aspect of the case from such evidence as brings into prominence features already familiar to us from another side.

Henry III. showed direct and personal hostility. Immediately after the festivities of Christmas (1249) the king entered upon the following plan of harassing the citizens of London. He suspended the carrying on of traffic in that city for a fortnight by establishing a new fair at Westminster, and immediately afterwards he sent letters asking them for pecuniary aid. On receipt of this message the citizens said:

"Woe to us, woe to us! where is the liberty of London which is so often bought, so often granted, so often guaranteed by writing [*totiens scripta*], so often sworn to be respected. For each year almost like slaves of the lowest condition we are impoverished by new tallages and injuriously harassed by foxlike arguments; nor can we discover into what whirlpool the property [*bona*] of which we are robbed is absorbed."[1]

At length, however, the citizens yielded their consent to a contribution of two thousand pounds. His usual oppression, moreover, raged without any moderation; for all vendible articles, if they were not concealed as if they were stolen goods, especially meats and drinks, were seized for the use of the king.

[1] Mathew Paris, *Chronica Majora*, v. 49.

Another occasion occurs in 1255, when, in consequence of the escape from gaol of a certain clerk, who, according to report, was guilty of murder, and who had been imprisoned at London, the king instituted severe proceedings against the citizens, and demanded of them the sum of three thousand marks under the name of tallage, and for punishment because they did not guard their prison more carefully. A certain man of letters who was accused of the murder of a prior of the Black order on the continent was imprisoned in Newgate, but made his escape. The queen complained to the king. The fugitive fled to his brothers of the order of Minors, who received him amongst them, and shaving off his hair conferred on him the habit of their religious order, whereupon the citizens became enraged, and vented their anger upon the brethren, to their great injury. When cited before the king they replied that he himself had given up the prisoner to the bishop of London, who demanded him as being an ordained clerk; that the bishop not having a proper place of incarceration had begged of them to allow him the use of the prison of Newgate; that the citizens granted the bishop's request, and that, in the meantime, the prisoner deceived the keepers placed over him by the bishop and escaped, wherefore the blame of the escape they submitted ought not to be imputed to the citizens.[1]

Financial oppression was perhaps to be expected. In 1241 the king took by force from the mayor of London [*a majori Loudoniarum*] an annual revenue of

[1] Mathew Paris, *Chronica Majora*, v. 486.

forty pounds, which each mayor had been accustomed during his own time to receive yearly for the honourable support of his dignity from the commonwealth of the city as if from a republic. For it had been intimated to him that the mayor of the city, under pretence of making that collection which was limited to certain terms, laid his hands heavily on the poor citizen, more than he was allowed to do, and secretly laid up money for himself in his own coffers. He therefore compelled Gerard Bat, the then mayor, to make oath that he himself would not again collect and receive that tax. Not long after this the citizens of London, contrary to the custom and liberty of the city, and like slaves of the basest conditions, were compelled to pay a sum of money to the king, not under the name and title of voluntary aid but of tallage, and this import weighed very heavily upon them.[1]

In 1244 it is recorded that the king, eagerly gaping after money without committing the community of the kingdom in general, at least without the advice of his nobles, shamelessly, and by force, extorted fifteen hundred marks from the London citizens; the king's party asserted that twenty years back they had received one of their fellow-citizens, Walter de Buckerell, who had been justly expelled from the city, and had been a long time in exile, but the London citizens contradicted this, and declared that he had been made a legal subject by the entreaties of and the presents made by his brother Andrew to the king, that he was forgiven by the

[1] Mathew Paris, *Chronica Majora*, iv. 94.

king's consent and command, and became one of their fellow-citizens, as the king's rolls would testify; but, finally, the citizens were obliged to pay the said sum of money to be thrown away on foreigners.[1]

Two other examples occur from the same authority. About this time (1246) the citizens of London, whom the royal clemency was bound to keep under the wings of its safe protection, were compelled in bitterness of heart to redeem themselves by the payment of a thousand marks under the title of tallage; and in 1249 the king spent Christmas in London, and shamelessly transgressing the bounds of royal dignity on the day of the circumcision exacted from each of the citizens of London, one by one, the first gifts which the people are accustomed superstitiously to call New Year's gifts.[2]

Let me next instance a case where Edward I. took the government of the city into his own hands absolutely. I quote from the London records:

"In the year of our Lord 1280 [1285], being the fourteenth year of the reign of King Edward, son of Henry, Gregory de Rokesley, the then Mayor, the sheriffs, Aldermen, and other dignitaries of London were summoned to appear upon the Feast of the Apostles Peter and Paul [29 June] before John de Kirkeby, Treasurer, and the other Justiciars of his lordship the King, in the Tower of London, for the purpose of holding Inquests there; and that the said Gregory at Berkyngechirche of purpose resigned the Mayoralty, and delivered the common zeal of the city to one Stephen Aswy and other Aldermen, and then entered the Tower with the rest, not as Mayor, but as one of the Aldermen, and a

[1] Mathew Paris, *Chronica Majora*, iv. 395-396.
[2] *Ibid.* iv. 510-511.

neighbour of the citizens before mentioned alleging on behalf of the city that by their ancient liberties they are not bound to enter the Tower of London for the purpose of holding Inquests or to make appearance there for judgment, unless forewarned for forty days thereto—Whereupon the said John de Kirkeby took the Mayoralty and Liberties of London into the King's hand, because the city was found to be without a Mayor. Wherefore the citizens, upon appearing afterwards at Westminster before the King, were arrested to the number of eighty men, and some other citizens, who the day before had been with the Mayor at Berkyngechirche and the Tower, were incarcerated. But on the fourth day after they were all liberated, Stephen Aswy excepted. And his lordship the King then gave the citizens a warden in place of their Mayor, namely, Sir Ralph de Sandwich, Knight, and commanded him to keep and govern the citizens according to their custom and liberties."[1]

These proceedings strike me as very remarkable. Edward I. was a great monarch, and a great statesman. The citizens attempted to maintain rights against the crown, and he promptly took effective action against them by revoking their charters and appointing his own nominee, as warden, to govern the city. This mode of government lasted until "Wednesday in Easter week in the six and twentieth year of the same King Edward," when "all the Aldermen and certain other reputable men of the said city appeared before the king at Westminster, and then his lordship the king with his council granted unto them the election of the mayor."[2] That is to say, the government of the city was in the hands of the king for twelve years. This is evidence enough of

[1] Riley, 15-16.
[2] *Ibid.* 16-17.

the power of the state, although the citizens, prompt to profit by the requirements of the crown, did not fail in the reign of the great Edward's grandson, Edward III., as recorded in their archives, to retrieve their position. As the

"said appointment of a warden and seizure of the liberties in the King's hands, for the transgression of one individual seemed rather an act of caprice than an exercise of legitimate right, to the end that the same might not happen in future, his lordship King Edward the third granted by his charter that for no personal transgression whatsoever, or personal judgment pronounced against any officer of the said city, should the liberties of the city be taken into the king's hand, or into those of his heirs, nor should any warden in the same city upon such pretext be appointed."[1]

Another side of the question is contained in a record where the mayor is commanded to attend the king abroad. Thus an order was made

"to the sheriffs and community of London to provide in the place of Henry de Waleys, mayor of that city, who is going with certain men of the city to the king in parts beyond sea, by the king's order, by the counsel of the said mayor, and by their own counsel, two discreet and faithful men of their fellow-citizens to keep the city in the mayor's place in the king's faith and tranquillity during the mayor's absence, so that the sheriffs and community shall be intendent to the said two citizens until the mayor's return in all things pertaining to the government and custody of the city, as they would be to the mayor, if he were present."[2]

The theoretical superiority of the sovereign state could therefore in practice be an actual superiority

[1] Riley, 16-17.

[2] *Close Rolls*, 2 *Edward I.* Calendar, 87.

whenever the sovereign king was powerful enough. It is true, however, that the king's appointed governor of the city was "enjoined upon oath to preserve the city of London and all its liberties and ancient customs unhurt in such manner as from of old they had been wont to enjoy the same."[1] In this way, no doubt, actual continuity of municipal law was assured, but it was assured at the express command and will of the sovereign, not by the inherent right of the city. We have therefore arrived at the stage of actual predominance of the state even though the state allowed government in the city according to ancient municipal customs and rules. This continuity is of great value historically, helps us to go back along the stream of time to the days when the state was not supreme, helps us to realise what city government meant in times when the state was only rising to its final position of supremacy; but it does not bridge over the chasm rent by the one supreme exercise of sovereign authority in the hitherto continuous strata of municipal authority.

These facts help us to understand that if the Norman conquest brought about the beginning of full and complete state government in England, it was, in London, not quite regular in action, allowing customs and formulæ to stand for the old condition of semi-independence, and exactions and force to stand for the new condition of subordination to the sovereign. The state assumed the reins of power in every direction, broke down the last remnants of the old tribal conditions which obtained

[1] Riley, 16.

in Saxon times, and began to work its way to the position of supremacy which it now actually occupies.[1] In theory, ever since the Norman conquest, the state has been supreme. In practice it has allowed a great deal of government to remain in the hands of municipal authorities. This allowance does not derogate from the supremacy. "What the sovereign permits he commands" is the doctrine of the analytical jurists, and it has been in full force ever since the Norman sovereignty.

[1] Cf. Pollock and Maitland, *History of English Law*, i. 69.

CHAPTER IX

THE self-governance of London during the period which witnessed the changes and development described in previous chapters does not stand clearly forth. It is hidden behind the movement of events which were destined to control the whole future life of the city. It peeps out here and there, and we become acquainted with sokes, with the mayoralty, with the commonalty, with powers exercised by the king, with rights exercised by the city, with defences put up by the city against sovereign power, and with some of the other phases which are discoverable beneath the main movement. It does not do, however, to rely upon these intermittent glimpses of the fact. They are apt to assume proportions which are not rightly theirs. They are apt to be measured by no standard but their own, and thus to give not the real picture but only a small fragment of it.

This is most clearly shown by the stages of London's municipal history as described by Bishop Stubbs:

"It passed from the unorganised aggregation of hereditary franchises, of which it seems in the eleventh century to have been composed; through the communal stage in which magnates and commons conducted a long and fruitless strife to a state of things in which the mercantile element secured

its own supremacy. It was on this condition of things that the Charter of Edward IV., which allowed the City to acquire lands by purchase and in mortmain, conferred the complete character of a corporation. Most of the essential features of such a body London already possessed; the city had long had a seal, and had made bye-laws; the other three marks which the lawyers have described as constituting a Corporation aggregate are the power to purchase lands and hold them, 'to them and to their successors' (not simply their heirs, which is an individual and hereditary succession only); the power of suing and being sued, and the perpetual succession implied in the power of filling up vacancies by election. Into the possession of most of these London had grown long before the idea was completed or formulated; and it would be difficult to point to any one of its many charters by which the full character was conferred. It is accordingly regarded as a Corporation by prescription; and in this respect, as in some others, takes its place rather as a standard by which the growth of other similar communities may be tested than as a model for their imitation in details."[1]

It is hardly necessary for me to say that the result of my own studies has led me to differ almost entirely from these conclusions of the great historian. I do not see the earliest stages of London's history in an "unorganised aggregation of hereditary franchises," but on the contrary I see Londoners legislating for themselves in an organised fashion in the days of the great Æthelstan, and I see the hereditary franchises encroaching upon the older municipal organisation as one of the results of the Norman conquest of England and of the domination of London and the cities. I do not see the communal stage marked as a development from the franchise stage; but, on

[1] *Constitutional History of England*, iii. 577.

the contrary, I see the Londoners taking advantage of the weakness of the sovereign power, and forcing a weak and criminal prince to recognise the mayor and commune. I do not see the necessity for the lawyer's conception of a corporation as a link in London's early history, when there exists the *de facto* corporation in spite of lawyers. For a group of men to meet together as the Londoners met in their open folkmoot, to there choose their chief representative, portreeve, mayor, or whatever title was adopted; for sections of this whole group to meet in their ward motes and there choose their aldermen; for mayor, aldermen, and commonalty to impose laws and compel obedience thereto, to impose taxation and compel payment thereto in scot and lot, to own property which was not personally one man's more than another —to do all the things which the city records say they did; and at the same time for the state law to concern itself not one jot with these things, but with matters concerning the holding of the great estates and lesser estates by barons and their vassals, with matters concerning the Exchequer, with matters concerning criminal law — with all this before us in substance, and in comparison one with another, I do not believe that the events of Norman times will allow for the origin of London municipal rights and organisation.

I

The municipal rights and organisation of London during Norman times need to be examined apart from the influence exercised upon them by the state,

and I shall briefly do this, first from the sectional side and then from the communal side.

There are, apart from the parishes which are of course ecclesiastical in origin, three local divisions of the city, the wards, each with its ward mote, the precincts, each with its assembly, and the city itself with its common hall, where every citizen had the right to attend. It is not easy to trace out what all these governing elements exactly mean, for the records are by no means exact, and they do not give any evidence as to origins. I think the precincts which have existed from time immemorial, and have a very curious history yet to be written, may be the last relics of the sokes obtained within the city by the Normans; and I think the wards whose origin is equally obscure may—on the evidence of their boundaries being coincident with Roman boundaries—be the last relics of the Roman system of government. They were Englished by being granted motes and by being organised into administrative units. In the common hall I think we see the last development of the Anglo-Saxon folkmoot of the city, that democratic body which we have seen fighting for its existence in Plantagenet times, and which, deprived of its open-air assembly, continued in its democratic form as common hall. It is not a little curious that among its functions should be that of election of mayor, that right claimed by the commune of London from King John, together with the election of other municipal officers. Shorn as these functions are now, they retain sufficient of their ancient form to allow us to look back upon the common hall as having taken its roots in

the assembly of the Saxon tribesmen, who, entering London as citizens, took with them their democratic mode of government and set it up alongside of the older system, which it could not quite replace.

The principal features of each of these local divisions tend to show their origin. Each ward had its ward mote—its assembly. This was a

"meeting together by summons of all the inhabitants of a ward in presence of its head the Alderman, or else his deputy, for the correction of defaults, the removal of nuisances, and the promotion of the well-being of such ward."[1]

Here, then, is evidence sufficient of organised government, and that it is a part of the entire machinery of the city and not a bundle of independent units is shown by the fact that the aldermen held their ward motes "by virtue of warrants by the Mayor for the time being." It must, however, be admitted that the city wards and their ward motes afford important evidence of the ancient city organisation having been eaten into by opposing forces, though not to the entire extent. The ward motes elected the scavagers, aleconners, bedel, and other officials; the bedel certified as to the names of such hostellers, brewers, bakers, cooks, victuallers, and auctioneers as dealt within the ward; bakers were to have their stamps there; the Alderman sealed the measures and weights in the ward, and supervised and corrected all defaults and nuisances presented by the jurors. This is organisation of a special kind, but not of the manorial kind, for it is further shown

[1] Riley, 32.

to be a part of the city machinery, by the fact that in matters of default, when the alderman after "reasonably punishing and chastising" the offender finds him still obdurate, he is to report the same to the mayor, "whose duty it is to provide a condign remedy for the same."[1] The ultimate authority thus resting with the mayor deprives the ward jurisdictions of any but subordinate powers, and does not allow their origin to date beyond Norman times. It does not allow of any parallel being instituted with other ward jurisdictions, as, for instance, at York, for the York wards were, as we have seen, fully equipped as manorial units each with the allotted cultivating lands of manors. The London wards fall short of this, and present us with no feature which cannot be accounted for by the facts of their Norman history.

Turning from the wards to the sokes within the city, we find them to be entirely Norman in origin. I see no evidence whatever of their existence earlier. Mr Coote's splendid analysis of the Portsocn, the "English cnichtengeld," which we have already seen originated as London's organisation against the kinship organisation of the country beyond London, shows plainly enough that the soke in this instance received its full jurisdiction from a charter of Eadward the Confessor. This, of course, does not argue against its Norman origin, for the ways of Eadward were feudal.

Baynard's Castle, on the west, near the river (giving name to one of the modern wards of the city), Montfichet Castle, a little to the north of Baynard, along the western wall, were both bastion

[1] Riley, 35.

defences erected in the course of the city walls. In Norman times they became the property and fortified residences of Norman owners. There are also the significant names of Bucklersbury, the burgh or defended enclosure of the Bokerels; Aldermanbury, the burgh or defended enclosure of the aldermen, and Paulsbury,[1] perhaps the soke of the cathedral, all of which show the city to have become in Norman times, not so much a great city defended by its great wall in common for all citizens alike, as a city containing within its own area little sub-defences, so to speak, necessary for its new life under the Normans. But these small areas of jurisdiction did not divert the original main stream of municipal jurisdiction very far. They were forced upon the city, and the city absorbed them in its own grand fashion, absorbed them so completely that they almost disappear from practical politics soon after their creation. The best illustration is, I think, Stow's quaint description of Blanch Appleton soke,

"whereof I read, in the 13th of Edward I., that a lane behind the said Blanch Appleton was granted by the king to be enclosed and shut up. This Blanch Appleton was a manor belonging to Sir Thomas Roos of Hamelake, Knight, the 7th of Richard II., standing at the north-east corner of Mart Lane, so called of a privilege sometime enjoined to keep a mart there, long since discontinued and therefore forgotten so as nothing remaineth for memory, but the name of Mart Lane, and that corruptly termed Mark Lane."[2]

[1] This name occurs in Ælfred's will printed by Thorpe, *Dip. Anglicum*, 520; but being connected with the church the question of the Norman origin of the sokes is not affected by this earlier reference.

[2] Stow's *Survey* by Thoms, 57.

In this one record we have the forced action of the king, the establishment of the manor and its mart, its decay and its final stage in the corrupted form of a place name.

These little areas in the city of London in the twelfth and thirteenth century got to be called manors, but none of them possessed the full manorial organisation. They had their lords and their courts, but that is all. They are, if nominally manors because Norman lawyers could not rule them under any other name, nothing but islands of jurisdiction carved out of the city by Norman lords. They are deductions from the city area of complete municipal government, but they do not form on their own account other units of government. They are rather negations of government. Over them, as over the wards, was the municipal power, and I agree with Miss Bateson not only that the manuscript which she so judiciously edits, but that the London records generally

"yield passages which will serve to show that there has been a tendency somewhat unduly to minimise the measure of municipal administrative unity in the twelfth century 'shire' of London—the London of the sokens—in the days before the mayoralty; in spite of the strength of the sokens of which the manuscript has something to tell, it shows us that there were signs of a cohesion among the several parts having every appearance of high antiquity without any trace of connexion with the system of the shire; the collection, as a whole, leaves the impression that the *communio quam vocant Londoniarum* (1141), as it is styled by William of Malmesbury, was not merely a unit in the eyes of the exchequer, that the jurisdictional unity of the city organised in folkmoot and husting gave something substantial whereon the foundations of mayoralty and commune could be laid; it gives support

to the belief that nowhere must town jurisdiction be neglected as the source of town constitutions."[1]

All this is much to the point, and I gladly quote it as independent testimony to the conclusion which I have come to from other sources, testimony too by a witness whose original research is a guarantee of the respect which all students must pay to the conclusions drawn therefrom.

II

There was also another and more potent element in London foreign to municipal life. This is the ecclesiastical life. It is very difficult for us to understand how the mediæval ecclesiastical system entered into the constitutional lives of the people. We have seen it at work in the earliest days appropriating the territorium of Roman Lundinium; we have seen it as part of the governing authority of the city during Saxon times; we have now to learn of its more direct encroachment into citizen rights during mediæval days.

No more than one church in London is mentioned in Domesday Book, and that is Allhallows Barking. Of course this would be accidental, as London is not described in Domesday. According to Stow, Bow Church, Cheapside, was built on arches of stone at the time of the conquest, and there was also at this time a collegiate church at St Martin's. Beyond London in the Domesday record is mentioned the great minster of Southwark; the new and fair church

[1] *Eng. Hist. Rev.* xvii. 481.

at Bermondsey founded by Alwyn Child, a citizen of London; and of course Westminster, built by Eadward the Confessor.

After the conquest the monastic institutions grew very rapidly. Within the city were the great religious houses of Austin Friars, founded in 1253; the Priory of St Helens, founded 1212, the church of which still exists, having escaped the great fire; and the great Cathedral of St Paul's. At the eastern extremity by the Tower we have the Church and Hospital of St Katherine, the church, a noble building of extreme interest, existing down to 1825. A little northward stood East Minster, a Cistercian abbey founded by Edward III. in 1349. Still further north was the Abbey of Clare, which has given its name to the Minories, after the Minoresses of St Mary, of the Order of St Clare, founded in 1293. Just within the wall at Aldgate was the Priory of Holy Trinity, founded by the Empress Matilda for the Canons Regular, and now occupied by Duke's Place, so called after Thomas Howard, Duke of Norfolk, to whom the precinct of the priory descended by marriage. St Mary Spital, founded in 1197, was a monastic hospital, and gave the name to Spital-fields. Close to Bishopsgate was the Priory and Hospital of Our Lady of Bethlehem, founded in 1246 by one of the sheriffs of London, and taken down in 1676. To the north-west were the Priories of St James and St John, Clerkenwell, founded in 1100, and of which the grand south entrance is still standing and known as St John's Gate. This gate was erected in 1504. St Bartholomew the Great, at Smithfield,

was founded in 1123, and the choir and transepts of the great church still remain; the Charter House was founded in 1371, and the gateway, still standing in Charter House Square, is said to be where one of the limbs of John Haughton, the last prior, was set after he had been beheaded at Tyburn, and his head set on London Bridge. On the west was Blackfriars Monastery, founded in 1221, an immense establishment including two churches and surrounded by a wall with four gates. Further west, adjoining Bridewell Palace, was the Monastery of Whitefriars or Carmelites, founded in 1241. On the south was St Saviour's Church and Priory, founded in 1106, and of which the magnificent church, dating from 1208, and in part earlier, is still one of the glories of London. A little to the east of this was the ancient house belonging to the Priors of Lewis in Tooley Street. Down by the water's edge, a little to the east again, was another great house belonging to the Abbots of Battle. And there was the Home of the Templars, of which the round church, one of three in all England, still stands as a monument.[1]

These great houses and establishments thus formed an immense element in London life. But church influence was still greater than is shown even from this. No city in England was so full of churches as London. There are even to this day one hundred and twelve separate parishes within the city walls, each parish with a church and separate organisation,

[1] Cf. Morgan, *England under the Norman Occupation*, 170-173, and Ordish, *Early London Theatres*, 2-5, for the principal sketch I have adopted, and the several histories of London for detailed facts

and when one traces out on the modern map of London how the parish organisation cuts athwart the old municipal organisation of the wards, we can understand somewhat the ever-extending power of this great ecclesiastical system. We in this age cannot grasp it. Ecclesiasticism has lost its ancient secular power, and the parish church is no longer the centre of parish government as of parish worship. Almost everywhere the parish is coincident with the manor, and nowhere is it in direct antagonism to the manor. In London, however, it is coincident with no other unit—neither with ward nor precinct. Sir Walter Besant describes the condition of things before the dissolution very graphically,

"Of London in the thirteenth century there was no street without its monastery, its convent garden, its college of priests, its canons regular, its friars, its pardoners, its sextons and its serving brothers, and this without counting its hundred and twenty parish churches, each with its priests, its chantires, it fraternities and its churchyards. The church was everywhere; it played not only an important part in the daily life, but the most important part. Not even the most rigid puritan demanded of the world so much of its daily life, and so great a share of its revenues as the church of the middle ages. . . . Every house was possessed of rich manors and broad lands; every house had its treasury filled with title deeds as well as with heaps of gold and silver plate; every house had its church covered with marble monuments, adorned with rich shrines, and blazing altars, and painted glass, such as we can no longer make."[1]

These great communities were almost independent of the city, economically as well as constitutionally,

[1] *London*, 87, 125.

and this fact is an important indication of their position. They were maintained by a system which kept together lands and manors upon ancient lines unchanged by the changing times. Every now and again there was record taken of possessions and dues and duties, and in those relating to St Paul's great cathedral we have a remarkable contribution to the history of London. St Paul's Cathedral was governed by its bishop and its canons. The bishop possessed certain manors in his own right, including the great manor of Stebenheth or Stepney, which stretched from the walls of London almost to the boundaries of Essex and of Barnes and Wimbledon on the south-west. The canons possessed their manors in common, and no less than thirteen of them, namely, Pancras, Rugmere, Totenhall, Kentish Town, Islington, Newington, Holborn, Portpool, Finsbury, Hoxton, Wenlock's Barn, Mora, and Eald Street, are found to occupy a belt of land of no inconsiderable breadth from the walls of the city of London towards the north. London was therefore not only occupied by the great religious foundation we have noted, but was surrounded by church lands.

The cathedral consisted of far more than its church. On the west side of the street now called Godliman Street stood the bakehouse; it was a large building, and its place is still identified by Paul's Bakehouse Yard. The brewery probably adjoined it. There was a mill for grinding the corn worked by horses, and in one document the horse path by the mill is mentioned as undergoing repair.

The manors sent up for use of the cathedral

certain quantities of wheat, oats, and barley. This corn was converted into bread and beer, and each of the thirty canons received three loaves per day, and the other officers a lesser allowance. The brewings of the cathedral took place twice a week, and the beer was distributed in proper proportions. The business of the mill, the brewery, and the bake-house, after taking account of the expenses and making the accustomed deliveries of bread and beer to all the members of the cathedral in their fixed proportions, left a profit which was divided amongst the canons in residence, and we thus see how the principle of common living was carried out to the last stage.[1]

This kind of thing went on with all the great religious foundations. Produce poured into London from the country manors near enough for the transit to be of practical value; and the monasteries used this produce for their upkeep and for the necessities of those who depended upon them.

Then again the religious communities influenced events. Apart from the enormous indirect influence which these great establishments exercised in London, there was also direct influence. We have already seen how the bishop of London was considered one of the civil governors of the city—he helped to pass the citizens' laws under Æthelstan, and to him and to the reeve was addressed the first charter of the Normans. Moreover, the prior of the Great Priory of Holy Trinity without Aldgate "was an Alderman of London, to wit of Portsoken Ward."[2] For the

[1] Hale, *Domesday of St Paul's*, iv., xlviii., li., cxxxii.

[2] Stow, *Survey of London*, Thoms' edit. 53.

great Monastery of Blackfriars a piece of London was ordered to be taken down.

Another point of importance was that some of these places were sanctuaries whither any criminal might fly from justice. The history of the sanctuary has yet to be written. When it is properly undertaken it will be found to be a part of the tribal history of the Anglo-Saxons, that part of it which the Church took over to itself when, as one of the elements of the post-Roman organisation in Britain, it swept into the ecclesiastical domain whatever of city life or tribal life it could manage to enfold. Sanctuary is a tribal institution, and it was centred round the tribal meeting place and the chieftain's hall. The Church sided more with the cities than with the tribes in its development of a polity. It saw tribesmen answerable to the law of retaliation and revenge, and it saw in the tribal feuds a state of things hostile to the peace of the Church. One way of meeting the conditions arising out of tribal feuds at a time when state government and law could not command the situation, was by providing a sanctuary for the harassed and flying tribesmen seeking to obtain protection from his enemy, and the Church seized upon this merciful method of increasing its powers. In tribal times sanctuary was the most powerful means of bringing about a state of law by which the criminal should be accused and heard judicially, in place of the tribal polity under which the criminal escaped by the aid of a powerful kin, and produced a condition of inter-tribal war, or else he became outlaw and fugitive, and suffered a doom worse than death. All this the Church accomplished

for the tribal criminal, and thus led to the bringing about of a higher conception of state government. Once accomplished, however, it continued its sanctuaries in later times and for unnecessary purposes, and this is exemplified by the evidence of the sanctuaries of London in Norman times.

In the case of Blackfriars the sanctuary was kept up long after the monastery was dissolved and its noble church was destroyed. The mayor on behalf of the citizens sought to obtain its abolition shortly after the dissolution of the monastery, but the king sent him word that he was as well able to maintain the liberties of the precinct as ever the Friars were, while in 1735 the city corporation brought an action in answer to which the privileges of sanctuary were pleaded. The sanctuary of Whitefriars was actually continued after the dissolution by royal charter, and there was gradually formed here a strange community, known as Alsatia, of lawless people who defied the law until in 1697 the charter was abolished by Act of Parliament. The sanctuary of St Martin, now occupied by the Post Office buildings, was perhaps the most famous. It was a source of perpetual trouble to the city, and a set of rules drawn up to prevent some of the most flagrant abuses reveals the conditions and the safeguards under which the right of sanctuary was permitted to continue.

Allen, from whom I quote these rules, prefaces them by the following statement:

"During the war between the rival houses of York and Lancaster, the inhabitants of this precinct were more daring and obnoxious than ever to the city; at last, the conduct

of the sanctuarymen had arisen to such a height of audacity. that the lord mayor and aldermen, putting themselves at the head of the citizens, forced the gates, and bore off several of the ringleaders. The dean preferred his complaint for breach of privilege, as on former occasions, to the king, but this time the citizens were directed to keep their prisoners until the matter could be more strictly investigated.[1] Soon after, these enormities produced the following articles, enacted by the king's council, for the better government of the sanctuary of St Martin's:[2]

"'*Henricus, Dei Gratia, Rex Angliæ & Franciæ, Dominus Hyberniæ: Omnibus ad quos præsentes Literæ perveniunt, salutem. Inspeximus Tenorem quendam Ordinationis, Concessionis & stabilimenti certorum Articulorum infra Sanctua Liberæ Capellæ nostræ, St Martini, infra civitatem nostram London, observandum & custodiendum, coram nobis, & concilio nostro, 5 die Februarii ultimo præterito apud Westmon. in Camera Stellata, ordinatorum & stabilitorum, nobis in Cancellar, nostram de mandato nostro missum factum, in hæc verba.*

"'The fifth of Feverer, the yeere of the reigne of our Soveraigne lord king Henry VI. thirty-fifth: at Westminster, in the sterrechamber, our said soveraigne lord, calling to high remembrance the good and blessed entent that his full noble progenitors have at all times had to the honour, worship, conservation, and wele of the free chapel of St Martin's within the city of London, of the which the king our sovereign lord is founder and patron: desiring to do all that may serve to the ease and restful roule of the same; and conservation of the sanctuary, immunity, privileges, and liberties, as appertain to the said chapel and place; willing, that hereafter none occasion be geven to the breach or hurting them: remembering also the great complaints, grudging, and displeasure, that his subjects have taken, and especially the citizens and commonalty of the said city of London,

[1] Kemp, St Martin's, 146.

[2] Allen, *History of London*, iii. 46-49.

of the demeaning of the misruled person coming and abiding in the said place, under umbre and colour of the sanctuary there; the which have at divers times, issued out of the sanctuary and committed many ryots, robberies, manslaughters, and other mischiefes; were through the said sanctuary hath been greatly dislaundered, and (over that) great inconvenience like to ensue.

"'After great deliberation and communication had, as well with doctors of divinity as of law, civil and canonicall; called also thereto the judges of this our land, and their advices had in that behalfe; other men also of great wisdome and experience, for the weale and conservation of the said sanctuary, and to eschew the said misgovernance and mischief, called also before our said soveraigne lord and his councell, the maior and the aldermen of said city, and Master Richard Cawdre, dean of the said place of St Martin's; our soveraigne lord (by the advice of his councell aforesaid) ordained, granted, and established certain articles underwritten, to bee kept and observed within the said sanctuary from this time forth, without any interruption of them. Willing and ordaining, that the said deane that now is, promis by his oath the observance of the same, for the time that hee shall bee deane there. And that every deane after him, in his admission to the said deanary, be sworne to keepe the said articles in semblable wise, and make them to bee kept within the said sanctuary; the which articles beene such as follow:

"'1. First, that every person fugitive comeing into the said sanctuary for tuition, and challenge to enjoy the immunities and privileges thereof; at his entrie, as soone as hee commodiously and reasonably may, shall now present himselfe unto the said deane, his commissarie, or depute in that behalfe; and before him declare the cause of the feare moving him to come to the said sanctuarie; be it for treason, felony surmised upon him, or for other causes. And that the said declaration and cause bee registered in the common register, ordained therefore in the said sanctuary, and the name of the said fugitive.

"'2. Item, that hee, at his first entree, present and deliver unto the said deane, commissarie, or depute, all manner of weapon and armour, that hee bringeth with him, as well invasive as defensive; and that he be not suffered to weare or use any such weapon or armour, or it to have in his keeping within the sanctuary in any wise, except a reasonable knife, to kerve withall his meate, and that the said knife be pointlesse.

"'3. Item, that every erraunt and open theefe, robber, murderer, and felon, notoriously noised by the common fame of the people; or if the said deane, commissary or depute be credibly informed, or due proofe be geven or made, that he is such one, repairing to the said sanctuary, to the intent that he shall not (under colour of the said sanctuary) intend to doe further mischiefe, find sufficient seurte to bee made unto the king, as well by his own obligation, as by the obligation of other, of his good bearing for the time of his abode within the said sanctuary, and for a quarter of a yeere after his departing out of the same: and that hee bee kept in ward into the time he have found and made the said seurte. And if it so be, that it be complained or shewed unto the king's highnesse, that the said suerte bee not sufficient; that then, at the commandment of the said councell (if it bee thought necessary, the said deane, commissary, or depute, shall take other and better secruete, or else commit them to ward unto the time better securete bee found. Foreseene alway, that if the said fugitive will depart out of the said sanctuary, that hee may do so when hee will.

"'4. Item, That all the out-gates, as well posternes, doores, as all other issues outward, whatsoever they be, of the said sanctuary, bee surely closed and shut nightly at nine of the clocke: and so remaine shut from the same houre unto sixe of the clocke in the morning, from the feast of Allhallows unto the feast of Candlemasse; and the remanent of the yeere, nightly, from the said houre of nine unto foure of the clocke in the morning, or unto the time the first masse beginneth within the said place: and that all those

that been fled to the said sanctuary for treason or felony be within the closure on night's time.

"'5. Item, if any such theefe, murderer or felon, resort to the said sanctuary for tuition of the same, with any manner robbery, or stolen goods, if the party robbed make fresh sute therefore, and prove by open evidence, that the same felon hath brought into the said sanctuary the said goods so stolen thence, the said deane, commissary, or depute, shall put in true devoir, withouten any dissimulation, fraud, or malengyne, to make full restitution unto the party so grieved of the said stolen goods, if they can bee had. And semblably, if any fugitive come to the said sanctuary with other men's goods, merchandise, or things, intending there to live with the same, and the owner of the said goods, merchandise, or things, make proofe that they be his, and verifie that they be brought into the said sanctuary, the said deane, commissarie, or depute, shall put him in full devoire, to make restitution to the party so proving that the same goods, merchandizes, or things were his. And no fugative, nor none dwelling within the said sanctuary, shall receive, conceale, nor buy any such goods; but that they bee brought to the said deane, commissary, or depute, to the intent that the owners may have the sooner knowledge of them. And if the said goods so stolen and brought to the said sanctuary be concealed from the said deane, commissary, or depute, and brought by any dwelling in the said sanctuary, that then the buyer (abiding there) make restitution or satisfaction to the party grieved, proving the said goods so stolen to bee his, and so sold in the same sanctuary.

"'6. Item, if any person, having tuition of the said sanctuary, from thence issue out by day or by night, and commit or do any robbery, murder, treason, or felony, or battery, so done (withouten forth) commit the same misdoer to ward, there to remaine as long as he will abide in the sanctuary. And if so bee hee will depart from thence, he shall depart at an hour to be assigned unto him by day, betwixt sunne and sunne.

"'7. Item, that subtle pickers of locks, counterfeitours of keys, contrivers of seals, forgers of false evidences, workers of counterfeit chaines, beades, brouches, ouches, rings, cups, spoons silvered, and plates of copper gilt, uttered for gold, unto the common hurt of the people, be not suffered in the said sanctuary. And if any, being within the said sanctuary, be holden suspect of the things abovesaid, let him be committed to ward till he find sufficient surety as in the third article abovesaid.

"'8. Item, That common putuers, strumpets, and bawdes, be not suspected in the sanctuary: and if they claime the tuition of the said sanctuary, that they be set in open ward on day times, till shame cause them to depart, or to amend their vicious living.

"'9. Item, That deceitful games, as playes at hazard, the dice, the guek, the kayelles, the cloysh, and other such unleeful and reproveable games, bee not used, supported nor cherished within the said sanctuary.

"'10. Item, That all artificers dwelling within the said sanctuary (as well barbours as other) keepe holy the Sundeyes and other great festival dayes, without breach, or exercising of their craft, in such wise as done the inhabitants of the said city of London. And if they doe the contrary, to bee committed to ward till they finde sufficient surety, as in the third article above said, to use their crafts in manner and forme as doe the inhabitants of the said city, and according to the ordinances of the same city.

"'11. Item, That every person coming to the said sanctuary for immunity and tuition of the same, that hee, at his admission to the said sanctuary, be sworne on a booke to obey, keepe, and observe the articles above-said, and every each of them, with their pains and rules appertaining to the same. And the king, by the advice aforesaid, would, granted, and ordained, that this act be exemplified under his great seale, and be enrolled in his chancellary; to the intent, that the ordinance above said remaine of record, and that his subjects may have knowledge thereof.'"

There is enough evidence in this document to show how the Church and its organisation affected citizen life, and to show also that in this form its main growth and development was in Norman and Plantagenet times. A city honeycombed by the Church in this fashion was an altogether different city from that which had been compelled to admit the Church into its outside territory.

III

The gilds form another and most important element in the city government and much discussion has arisen as to the relationship of gild to mayoral government. It is not necessary to traverse the whole of this subject. We have seen the uprising of the gild organisations as the necessary complement to the kinship organisations which existed everywhere outside the cities, at all events everywhere outside London. But having begun in this way, it did not necessarily grow, for the kinship organisation of the tribes in the country was breaking down, and the need for gildships was passing way. Dr Gross says of the Æthelstan code that we hear of it for the first and last time in the reign of Æthelstan.[1] This, however, would not dispose of it. It would only indicate its gradual passing away. In any case the gild organisation did not grow in London as it did in other towns, as it did, for instance, in the group of towns with which comparison has already been made, with Bristol, Gloucester, Leicester, Lincoln, Winchester, Worcester,

[1] Gross, *Gild Merchant*, i. 179.

and York. The gilds of these towns are gild merchants granted by charter, and Dr Gross has noticed the absence of London from the list of such grants, and agrees with Norton and with Riley that there is no trace in London of its ever having been a general merchant gild.[1] The point is important. There were gilds as we know connected with particular trades, but there was no general merchant gild, and the individual gilds did not conflict with the general government of the city.

There is one other phase of London life in mediæval times which must be shortly touched upon, though it does not involve more than an indirect bearing upon matters of governance. This is the congregating of the various industries each in its own special centre. Whether this was enforced by rule or whether it was brought about by general convenience it is difficult to say. It certainly aided rather than obstructed the general government of the city. FitzStephen, in his celebrated account of the reign of Henry II., says that "men of all trades, sellers of all sorts of wares, labourers in every work, every morning are in their distinct and several places,"[2] and after quoting this passage, Stow, observing that "men of trades and sellers of wares in this city have oftentimes since changed their places, as they have found their best advantage," goes on to note the trade quarters of his day. Mercers and haberdashers were at Westcheap, goldsmiths were in Gutheron's Lane and Old Exchange, peperers and grocers in

[1] Gross, *Gild Merchant*, i. 20.
[2] *Liber Custumarum*, i. 6.

Soper's Lane, drapers in Lombard Street and Cornhill, skinners in St Marie Pellipers or at the Axe, stock fishmongers in Thames Street, wet fishmongers in Knightrider Street, ironmongers in Ironmonger's Lane and Old Jury, vintners in Vinetree, butchers in Eastcheap, St Nicholas Shambles, and the Stockes Market, hosiers in Hosier's Lane near unto Smithfield, shoemakers and curryers in Cordwayner Street, founders in Lothberie, cooks or pastelars in Thames Street, poulterers in Poultry, bowyers in Bowyer's Row by Ludgate, stationers in Paternoster Row, pattern-makers in Pattens Lane, basket-makers, and wiredrawers in Mark Lane, and the corn market on Cornhill.[1] This list indicates one of the features of old London which it has in common with other mediæval cities, both in England and on the continent, and which may still be traced in street names.[2]

IV

That London was the resort of a great number of foreign merchants, leads us to yet another phase of city life which makes it understood that one of the conditions which the city laws had to meet was the settlement of foreigners within its walls, and according

[1] Stow, *Survey of London*, Thoms' edit. 30-31, 57, 71.

[2] As, for instance, in modern Brussels. References are frequently made to trade quarters in the poems and songs of later days. Thus in *Follie's Anatomie*, by Henry Hutton (1619), the clothiers of Birchin Lane are mentioned (Percy Soc. Publications, vi. 17), so also in Dekker, *Gull's Hornbooke*, 1609, cap. 1, and in *London Prodigal*, 1605, Act 1, sc. 1. If the London of the poets could be recovered by a competent student we should gain much knowledge now lost to us.

to whether these foreigners fell under the jurisdiction of the king or of the citizen would the power of the city diminish or increase. This, in fact, points to another important feature of Norman London, for the foreign merchants were in the jurisdiction of the king.

They were from early times pressing in to this home of commerce and the history of the Hanseatic League is an interesting feature of this side of London history. Mr J. E. Price thus summarises the main features which are of interest to us:

"So early as the eighth century this commercial confederacy existed. It consisted of various traders from a number of the continental towns, who carried on a large business in exporting their manufactures to London in exchange for hides, wool, tin, lead and other products of British industry. These merchants are first heard of in the reign of Ethelred, 979, when the Emperor's men, as they were called, upon coming in their ships to Billingsgate, 'were accounted worthy of good laws.' The company was a very extensive one; but its most important branch, and the one with which we have more particularly to deal, was the 'Easterlings,' who had their settlement in London. Their factory and warehouses formerly occupied the Steelyard. Disputes arose with the Cologne merchants, who held part of Dowgate, on account of the Hanse traders so monopolising English trade. An amalgamation was the result, subsequently known as the merchants of Almaigne, who possess the house in London called the Dutch Guildhall, 'Aula Teutonicorum.' Among the Harleian MSS. there occur 'Grauntes of Priviledges by Kings of England from Henry III. to Edward IV. to the Haunses or the Styllyards, *alias Guildhala Teutonicorum.*' In the year 1250, at the special intercession of Richard Earl of Cornwall, Henry the Third granted unto Lubecke, one of the Almain merchants, privileges for seven years; and in the

same reign the sum of 30 marks was paid to the king by the citizens of Cologne to have seizin of their Guidhall in London. In 1256 he, at the wish of Henricke Duke of Brunswick, granted unto Lubecke and others privileges for ever. These were afterwards confirmed by his successors Edward the First, Second and Third.

"It is presumed these concessions were an acknowledgement for services rendered by the Hanseatic vessels in time of war. By way of gratitude, the Steelyard merchants agreed to keep the Bishopsgate in repair, maintain it, and if necessary help to defend it against any foreign enemy.[1] In 1282 the gate was in a ruinous condition, and we find the citizens calling upon the company to fulfil its promises. The claim was rejected, and an appeal made to the Court of Exchequer, which resulted in a decision against the merchants, who were compelled to repair the said gate: Gerard Merbode, the alderman of the Hanse of Almain, with six members of the guild, undertaking not only to pay the mayor, Henry le Waleys, and citizens, 240 marks towards the outlay, but agreeing hereafter to repair it, and bear a portion of the charge in money, and supply men to defend it in case of need. In consideration of this, additional liberalties were conferred: they were for ever to be quit of Murage (the charge for repairing the city walls), and facilities were accorded them for the sale of corn and other goods."[2]

The subsequent fortunes and misfortunes of this foreign trade in London do not concern us. It was governed by a few remarkable customs. The members were never allowed to sleep away from the Steelyard or to keep a housekeeper, and if any individual was discovered to have married an English woman he was forthwith excommunicated, and I

[1] Composition made between the citizens of London and the merchants of the Hanse of Almaine, as to the gate of Bysshopisgate. (*Liber Albus*, 417.)

[2] *London and Middlesex Arch. Soc.* iii. 1-3.

cannot help referring back to what has been said as to the potent force of the *jus conubii* in Roman and early Saxon times in illustration of this rule.

The Lorrainer, the men of Huy, Liege, and Nivelles, of Tiel, Bremen and Antwerp, the Norwegians and the Danes, all had special rights or restrictions, which perhaps it is not worth while referring to at length.[1]

V

The exercise of government functions in these various ways is enough to push out of sight the position of the city as a whole. It was, however, by no means inactive or tending to become so. There is plenty of evidence of collective action by the government of the city, beyond that which belonged to the local centres, the wards and the sokes, and the foreign merchants. We have found the wards and sokes both subject to the general government of the city, and only the ecclesiastical sokes, perhaps, independent or claiming independence. This is always so with the Church. If, as we have had reason to suggest, the Church had much to do with the founding of English towns, more to do with it perhaps than English monarchs, before English monarchs like Ælfred and his successors had learnt the importance of the towns, there is not much to be surprised at. But even the Church was not

[1] They may be read in the *Liber Cust.* i. 61-63, and see Miss Bateson's admirable addendum and comment in *Eng. Hist. Rev.* xvii. 496-502.

dominant in London. The city government was never split up into pieces, never passed away from the city to the several parts of the city, never resided elsewhere than with the governing body of the city. It is true that the governing body is hard to define. Its title even is not limited to one formal style. It has the sheriff, the portreeve, the mayor, as its principal officer, and there are facts which point to the aldermen being the equivalent of those judices or lawmen which are found at Chester and elsewhere.[1] It has, too, the folkmoot, a living institution in the thirteenth century. I have already traced out what I make of the origin of these apparently different institutions. We have now to see what there is to tell of the unity of the city government.

First of all, we will deal with systems of taxation and trade, where the city, perhaps through its chief officer, the mayor, but the city as a whole, acted. The city collected the customs for the king upon all foreign merchandise, and upon wool exported. It also levied octroi duties and the following quaint regulations obtained:

"Every load of poultry that is brought by horse shall pay three farthings, the franchise [*i.e.* freemen of the city] excepted. Every man who brings cheese or poultry if the same amounts to fourpence halfpenny shall pay one halfpenny. If a man on foot brings one hundred eggs or more he shall give five eggs. If a man or woman brings any manner of poultry by horse and lets it touch the ground such person shall pay for stallage three farthings. And if a man carries it upon his back and places it upon the ground he shall pay one halfpenny. Every bushel of bread shall

[1] Miss Bateson, *Eng. Hist. Rev.* xvii. 488.

pay one halfpenny per day. Every cart that brings corn into the city for sale shall pay one halfpenny; if it enters by way of Holborn or by the Flete it shall pay one penny. A cart that brings bread into the city from another town shall pay each day one halfpenny or a loaf."[1]

These are only examples of the duties levied by the city authorities,[2] and which were not authorised by the state law, not brought within the charter grants, absolutely left to the will and discretion of the citizens.[3]

Corn dealers were subject to special regulations, and could only sell their produce "within the gate of Newgate, before the Friar Minors there, and at Graschirche," and there is a remarkable provision as to city buyers of corn.

"Whereas some buyers and brokers of corn do buy corn in the city of country folks who bring it to the city to sell and give on the bargain being made a penny or halfpenny by way of earnest; and tell the peasants to take the corn to their house and there they shall receive their pay. And when they come there and think to have their payment directly, the buyer says that his wife at his house has gone out, and has taken the key of the room so that he cannot get at his money; but that the other must go away and come

[1] Riley, 203-204.

[2] Another example shows a different point of view. "To the mayor and sheriffs of London: order to permit the taverners of the city to sell their wines for 4d. a gallon until the king's arrival at the next parliament in the city, as wines are dear at Bordeaux and elsewhere in Gascony and are sold dearly in those parts as the king understands for certain." (*Close Rolls*, 3 *Edward, I.*, 1274, Calendar, 137.)

[3] In other boroughs there existed much more justifiable taxation than these octroi duties, and there was actually in Northampton a rule "that all the that byen londe tenement or rentis in Northampton shulle geuen at every xxs. that the payment, 11d. to the profyte of the town." (*Liber Cust.* of Northampton, Markham edit. 36.)

again soon and receive his pay. And when he comes back a second time then the buyer is not to be found; or else if he is found he feigns something else by reason whereof the poor men cannot have their pay. And sometimes while the poor men are waiting for their pay the buyer causes the corn to be wetted and then when they come to ask for their pay they are told to wait until such a day as the buyer shall choose to name or else to take off a part of the price; which if they will not do they may take their corn and carry it away, a thing which they cannot do because it is wetted and in another state than it was in when they sold it. And by such evil delays on part of the buyer, the poor men lose half of their pay in expenses before they are fully settled with—it is provided that the person towards whom such knavishness shall be committed shall make complaint unto the Mayor; and if he shall be able to make proof and convict the buyer before the Mayor of the wrong so done to him, the buyer shall pay unto the vender double the value and full damages as well in case the Mayor shall see that the value aforesaid does not suffice for the damage which he has received; and nevertheless let him also be heavily amerced unto the king if he have the means. And if he have not the means of paying the penalty aforesaid, or of finding the amercement, then he shall be put in the pillory and remain there one hour in the day at least, a serjeant of the city standing by the side of the pillory with good hue and cry as to the reason why he is so punished."[1]

This presents a perfect little picture of mediæval city life and city law. The peasants coming from the country; the knavish merchant; the whole story, one which depicts London in a fashion which our imagination can easily extend. What we have most to do with, however, is not the picture of life but the evidence of the city organisation and law. It is perfect. The

[1] Riley, 229-230.

city needs no state sovereignty to tell it how to deal with such cases. It takes them in hand with perfect assurance as to its right of enacting such a law, and as to its power to enforce it. It must be noted that the pillory is the final sanction to this law to be carried out by the city officer and put into force by the city government. It must be noted, too, that the king comes in for a share of the penalties imposed upon the knavish citizen—a last share after all else is satisfied, a share which may even at the last have to be foregone by the knave being pilloried instead. It is not without significance that the state sovereign is thus brought within the action of the city legislation, and indeed the whole record is full of the very greatest significance in the determination of the relationship of the city to the state.

When Fitzalwyn was mayor of London a remarkable law was passed, namely, a building law, the earliest known building law of London. Its provisions are remarkable, and show us as much as anything the command which the city as a body exercised over individuals — again be it observed without the express sanction of the state. I will quote some of the most important provisions of this code:

"When it happens that two neighbours shall wish to build a wall between them of stone, each of them shall give a foot and a half of his own land.

"If any person shall wish to build a wall of stone and his neighbour through poverty cannot, or perchance will not, then ought he to give unto him who shall so desire to build three feet of his land and the other shall make a wall upon

that land at his own cost, three feet in thickness. No doorway, inlet or outlet, or shop shall be narrowed or restricted to the annoyance of a neighbour.

"When a person has a stone wall of his own sixteen feet in height his neighbour must make a gutter under the eaves of his house that is situate upon such wall, and receive in it the water falling from the said house.

"A neighbour may not obstruct the view from another's windows by building opposite to such windows.

"Houses shall not be covered with straw or stubble.

"The penthouses and jettees of houses shall be so high that folks on horseback may ride beneath them, and that they shall be of the height of nine feet at the very least, and that all others shall be forthwith rearranged within forty days under a penalty of forty shillings unto the use of the sheriff." [1]

These are not the only constructive powers claimed by the city government, as the following record will show. The king addresses a writ

"to the mayor and citizens of London — order to permit Reginald de Suffolck[ia.], their fellow citizen to re-erect certain posts [stapella] outside the gate of his house in the city to guard against the danger [*propter discrimina*] of carts there passing, and to permit him to have the posts when re-erected, which posts were lately thrown down to Reginald's grievous damage by reason of a presentment made by the mayor and citizens last in eyre at the Tower, as the king has granted to Reginald for his praiseworthy service to the king, that he may re-erect the posts." [2]

There is no doubt as to the power of the mayor and citizens to grant this request. If the king claims power to make the demand, he makes it through the mayor and citizens, and not direct to the grantee.

[1] Riley, 223-225, 237.

[2] *Close Rolls*, 5 *Edward I.*, 1277, Calendar, 384.

These building laws were rigorously enforced, and there exist among the archives of the city and of the great foundations several examples of deeds for carrying out building operations. One deed belonging to the Dean and Chapter of St Paul's gives in detail the methods of building twenty houses "between the north door of the capitular bake-house, and the south corner of the same, and thence to the houses of the Abbey of Peterborough" — a most interesting document, dated 7th April, 43 Edward III. 1369.[1] Another document dated at Guildhall, the morrow of All Saints, 1282, is an agreement between the city and the cathedral, from which I will quote a clause or two to illustrate the organisation of the city for legal purposes:

"Wee the said mayor and citizens with good faythe doe promise . . . by lawfull stipulation that we shall make or cause to be made all maner of drops of water of the said shopes (builded aboute the walles of the greate churchyearde of the church of St Paule) to be turned away towardes the kinges hieway leaste any doe distille into the churchyearde, or uppon the walls of the same whereby the same receave hurte or to be made worse, and that we shall nott permite butchers, poticaris, gouldsmithes, cookes, or comon women, to dwell in the same shopps by which noyse or tumulte or dishonestie the quietnes or devotion of the ministers of the churche may be troubled, nor also shall suffer those which shall dwell in the said shopps to burne any seacooles in the same or such other things which doe strike. Moreover at our owne charges we shall cause all the coffins of the bodies laethye buried in the tombes or hollowe places of the outer part of the walle towardes the north to be decentlie buryed or put at the leaste in three honest graves under so many

[1] *Hist. MSS. Com.* ix. 50.

tombes or hollowe places in the inner side of the same walle, and the saide outward tombes or hollowe places to stop up with lime and stone; moreover, we the saide mayor and many of the Aldermen of the saide cittie as far as to our owne persons dothe aperteayne doe graunte and with good fayth doe promise to doe our best indevor with the commons of the said cittie that it may be graunted unto the said Deane and Chapter, that they may shutt all the gaets of the south churche yearde of the church of St Paule every night after courphew is ronge so that they shall be opened early every day againe, that we shall not sett procure or cause to be sett any more shoppes without or beyonde the boundes conteyned in the charter or deadde of our lorde the kinge for the buildinge of the same shopes made, viz., beyounde the gate againste Ivey Laine towardes the west."[1]

This is altogether a remarkable document. It does things by agreement which it would now require an Act of Parliament to do. It governs and decides the class of people to occupy shops in the city, prevents the use of sea coal, and it removes burial places. Finally the mayor and aldermen agree to influence the commons of the city in a matter of city government, the closing of the gates of the churchyard. Altogether it affords much insight into the constitutional side of London life.

The Dean and Chapter of St Paul's were not quite innocent of building upon cathedral land; for in a deed, dated 1309, twenty-seven years later than this agreement with the mayor, Richard de Newport, Archdeacon of Middlesex, writes that

"the house in which he dwelt and especially the camera which is called Rosamunde is affected by the noise of men and horses in the neighbouring streets, no less than

[1] *Hist. MSS. Com.* ix. 51.

by the mean prospect of the houses on the opposite side of the street,"

and the Dean and Chapter grant him

"licence to build on the space of ground which abuts on the king's highway from the chapel of the said house as far as the wall of the cemetery of St Benedict, and reaches back from the said chamber as far as a certain pear tree and certain vines which are not to be included."[1]

Noises of men and horses in the city we can understand, but pear trees and vines are somewhat strange ideas to us now.

I pass on to some examples of general citizen law,

"no swine shall be found about the streets or about the lanes in the city, or in the suburbs, or in the fosses of the said city . . . . and he who shall wish to feed a pig must feed it in his house."[2]

"All the lanes leading towards the Thames from the King's highways from Castle Baynard unto the Tower of London shall be kept clear that no persons on horseback may without hindrance ride and go unto the Thames, and if it be not so the sheriffs shall cause the same to be done at the cost of those who have caused the impediment, and nevertheless let those who thus impede be heavily amerced."[3]

"It is also forbidden that any person shall be so daring as to be found going or wandering about the streets of the city after curfew rung out at St Martins le Grand and St Laurence, or at Berkyngchirche, with sword or buckler or with other arms for doing mischief whereof evil suspicion may arise, or in any other manner; unless it be some great lord or other substantial person of good reputation, or a person of their household who from them shall have warranty, and who is going from one to another with light to guide him; and if any one shall be found going about contrary to the form aforesaid, if he have no occasion to come so

[1] *Hist. MSS. Com.* ix. 49. [2] Riley, 236. [3] *Ibid.* 239.

late in the city he shall be taken by the keepers of the place and put into the Tun (a prison on Cornhill) which for such misdoers is assigned. And on the morrow he shall be arrested and brought before the mayor of the city and the aldermen; and according as they shall find that such persons have offended and are thereunto accustomed, they shall be punished."[1]

Other regulations of great interest existed. "Two loaves shall be made for one penny, and four loaves for one penny, and no loaf shall be baked of bran," shows that even the price was regulated by the city. Bakers were well looked after,

"and if any default shall be found in the bread of a baker of the city the first time let him be drawn upon a hurdle from the Guildhall to his own house, through the great streets where there be most people assembled and through the great streets that are most dirty with the faulty loaf hanging from his neck. If a second time he shall be found committing the same offence let him be drawn from the Guildhall through the great street of Chepe in manner aforesaid to the pillory, and let him be put upon the pillory and remain there at least one hour in the day. And the third time that such default shall be found he shall be drawn and the oven shall be pulled down and the baker made to forswear the trade within the city for ever."

And bribes and commissions were not to be given. The retailers of bread were females who went from house to house, and bakers were forbidden to give to such "regratesses" as they were called,

"the sixpence on Monday morning by way of hansel money or the threepence on Friday for curtesy money but after the ancient manner let him give thirteen articles of bread for twelve," and "let him throw all such outlays into his bread for the profit of the people."[2]

[1] Riley, 240. [2] *Ibid.* 231, 232.

Here is not only good citizen law of mediæval London, but good state law of modern days, if only modern state government would bring within its cognisance such details of commercial life. And in passing it is well to note that even in this law we have an allusion to "the ancient manner," as if the laws then enacted were based upon customs already in force. What all these laws show is a living active power in the city for its good governance. No need to wait for the sanction of king or parliament; what was necessary for the good of the community was done for the community, and in this fact we have one of the most important features of the municipal life of the Middle Ages. Municipalities, and London above them all, were living organisms in the body politic, not compressed forms of government bound with restrictions and negatives imposed by the state.

It will not do to multiply examples indefinitely, and I therefore turn finally to the city jurisdiction over the Thames, which is altogether a remarkable feature of mediæval London government, not due to charters, not sanctioned by constitutional state government, but derived from ancient right and usage. I will put into a footnote a curious and interesting description of this jurisdiction without dealing with it further here.[1]

[1] The opinion of the Attorney-General (Coke) and Solicitor-General (Fleming) to Sir Robert Cecil, is preserved among the documents of Hatfield House, see *Hist. MSS. Com.* vii. 300-301, and is as follows:

"1597, *12th July*.—We have considered the petition of the Lord Mayor of London concerning the right and measurage of coal and other things measurable upon the river of Thames coming to the said

How was all this law enforced? Was it the police or magisterial power of the state government as Mrs Green has so strongly asserted in her

city; also the records and proof following, produced (amongst others) on the City's part.

"First, a verdict of twelve men of Surrey in 42 H. III., before Hugh Bigott and Roger of Thirkleby, Justices in Eyre, by which it was found, Quod nullis aliquid juris habet in Thamesia usque ad novum gurgitem nisi civitas London.

"Upon controversy between the Lieutenant of the Tower and the City concerning arresting of a ship upon the Thames in 46 H. III., before William Bassett, Chief Justice of England, and others of the King's Council, the river of Thames was allowed to belong to the City usque ad newe Were.

"In 29 Ed. I., the controversy then being for fees for measurage and portage of salt, it is found by inquisition and verdict of twelve men, Quod nullus mensurarius sit de London usque Lachenlade nisi dicti mensurarii et bushelli de Ripa Reginæ, that is, of Queen Hive (Hithe).

"By the records of the City it appeareth, Quod ij° Julii Anno 43° E. III., Johannes Whirwale, Rogerus Cooke, Henricus Cornewall et Galfridus Prudholme electi fuerunt ad standum in officio mensurationis carbonum maritimorum venientium ad civitatem London et jurati quod bene et fideliter mensuram facerent de carbonibus sic provenientibus, capiendo pro labore ipsorum sicut antiquitus consueverunt.

"In 8 Hen. IV., it was allowed by the King's Council, upon controversy concerning removing of kiddels, tanks and other engines in the river of Thames and Medway by the City, that the Mayor and Aldermen of London ought to have the conservation and correction of the river of Thames.

"Also, we find it proved by divers Acts of Parliament that the City of London ought to have the conservation or conservancy of the river of Thames, 17 Rich. II. cap. 9, and 4 H. VII. cap. 15, etc.

"Moreover, in 36 H. VIII., the Lord Mayor and Aldermen exhibited a petition to the King's Council, and thereby claimed to have the measure of corn, grain, coals, salt and other things upon the river of Thames by prescription and ancient allowance, and complained that they were disturbed of the same by one William Dowley, who claimed by patent from the King to have the measurage of corn, etc., upon the Thames; and upon hearing of the cause it was ordered that the City should continue their measurage, and that Dowley should no more meddle therein.

"Lastly, it appeareth to us that the city hath continually used the said privilege, and yet doth to this day.

interesting studies of town life,[1] or was it the magisterial force of the city organisation? The question is an important one, for it helps us to determine how far city law was independent of state government. We have seen that the pillory was one great resource, and the pillory was no state machine. There was, too, the pound and the ducking stool. The city law declared that

"there be no one who shall make resistance in deed or word unto the serjeants or the bailiffs of the city; and be it ordered that no one shall molest them in making execution upon judgments, attachments, distresses or other things which unto such bailiffs pertain to do under pain of imprisonment;"[2]

and this undoubtedly implies city government. And, finally, when one comes to understand that the citizens were "in scot and lot" as it was termed, the common organisation of the city has received its final touch. "All those who wish by the franchise of London to be protected," a most significant clause,

"shall be residing and dwelling in the said city, commoners of the said city, making contributions and aids, such as

"We also did of ourselves send for divers of the ancients and chief men of the Trinity House, who by all probability should best know how the possession hereof hath gone, who did una voce acknowledge that the City during all the time of their remembrance had used the said privilege and still doth use the same.

"Forasmuch as this case concerned her Majesty we have taken the more time and pains in informing ourselves of the state thereof. And we are of opinion, that the privilege of measurage, in the said petition preferred to her Majesty, doth of right belong to them by prescription, and is confirmed to them by divers Acts of Parliament.—From Holborn, this 12th July 1597."

[1] Mrs Green, *Town Life*, i. 124.

[2] Riley, 231.

commoners of the town ought to make; under pain of losing the franchise after forty days from proclamation made of whatever condition such person shall be. And he who shall not do this, after such forty days shall be ousted from the franchise, and shall be dealt with as a foreigner for ever after."

"Shall be dealt with as a foreigner," a sentence which means that he is practically without protection. The criminal might escape to a sanctuary, but "the people of the ward where the church is situate unto which such felon has betaken himself keep watch upon that felon until such time as he shall have been made to quit the realm."[1] This is outlawry, and the last resource of the city government was disfranchisement. A man to be disfranchised was to have his goods and possessions unprotected, his person in danger, his rights and privileges taken away. And with this powerful weapon to compel obedience the city organisation kept together all the forces which helped to make its law obeyed as thoroughly as, and more quickly than, the state law itself. If we do not catch sight of the actual organisation of the city we see its results; if the state law never seems to recognise the city as an entity, it accepts the results of its constant action as an entity. The exercise of the law of outlawry was in particular remarkable evidence of this. An outlaw from London was not in the law of the rest of the country, and the rest of the country had its own laws of outlawry in full operation. Thus the Eyre Rolls relating to Somersetshire for 1242-3 show us that there were

[1] Riley, 244.

only fifteen persons hanged to upwards of one hundred ordered to be outlawed, while forty-five took sanctuary and abjured the realm, and this ancient law of the shire comes down through the Middle Ages to modern times, when John Wilkes was outlawed in the county court of Middlesex, "at the Three Tons, in Brook Street, near Holborne, in the county of Middlesex."[1] The legal action of London had therefore to be recognised by the state,[2] and the legal historian describes it as it obtained in the reign of Edward I. in unwonted language: "One act of jurisdiction, one supreme and solemn act, could be performed only in the county court, and in the folk-moot of London—the act of outlawry."[3]

I am sure the importance of such a law, with such a history, having appertained to the commons of London in folkmoot assembled must be apparent. It goes back to the laws of tribesmen before they had become identified with special territories, those tribesmen of whom so much has already been written in these pages. That it was not part of the national law and that it was a law of the shires, are the two

[1] Burrow's *Reports*, 2530.

[2] This is illustrated by the following extract from the *Close Rolls*: "To the mayor and sheriffs of London: order to deliver from prison Richard Asshewy, Adam le Taverner, Ivo le Lyngedraper, John de Cumb, William de Bixhill, and John de Coventr[ia], whom the mayor and sheriffs detain in Newgate for certain trespasses charged upon them, and to restore to them all their goods and chattels arrested for this cause, if they will swear on the gospels before the mayor and sheriffs that they will not stay any longer in the city nor return thither without the licence of the king and of the citizens." (*Close Rolls*, 2 *Edward I.*, 1274, Calendar 66.)

[3] Pollock and Maitland, *History of English Law*, i. 540. Cf. Miss Bateson, *Borough Customs*, 72-73.

features which show the significance of its position as a law of London. London in this respect stands on a level with the shires, not with the cities and boroughs, and not only does it afford evidence that London had a municipal constitution organised upon lines not belonging to Norman conceptions of government, but that its special English features grew stronger than its surviving Roman features under the circumstances of Norman rule. The position, indeed, of the London folkmoot in Norman records is most interesting, and the appeal back to tribal rule for origins is not more remarkable than the development from it as city law. I will note but a few points in this development. There were three chief folkmoots during the year, and they are described as follows :

"At the Michaelmas folkmoot the meeting gathers to know who is the sheriff, and to hear the new sheriff's charge. The Christmas meeting is for keeping the wards or arranging for their watch. The third at Midsummer is to keep the city from fire on account of the great drought."

This shows the folkmoot to be an administrative body of some importance, and it is governed by most ancient rules.

"Any Londoner who neglects three folkmoots is in the king's forfeiture for forty shillings. But by the law of London the sheriff ought to cause enquiry to be made concerning any of whom he would know whether he is present. If there be any one who is asked for, and not there, he ought to be summoned to the husting, and be brought thither by the law of the city. If the good man says that he was not summoned that is to be known by the beadle of the ward. If the beadle

says he was summoned at the husting, he shall be attainted thereof, for the beadle has no other witness, nor ought to have, but the great bell which is wrung for the folkmoot at St Paul's,"[1]

—summoned in this picturesque, and no doubt ancient fashion in lieu, perhaps, of a still older fashion by the burghmote horn.[2]

Miss Bateson has in this as in other illustrations of London government illuminated the records by her powers of research. She shows, first, that the London interpolator of the laws of Eadward the Confessor ordered that the wards should be arranged, and careful provision made in the folkmoot against fire, and secondly, that these duties of watch and protection against fire were devolved upon the wardmoots at a later date; thus proving that powers belonging to the folkmoot of Anglo-Saxon London were transferred to the wards of Norman London. This important fact is in accord with what has already been asserted as to the organisation of the soke and the ward being the product of ascertained late times, not the inheritance from early times, and it is because Bishop Stubbs failed to observe this, that we have his appeal to the bundle of separate jurisdictions instead of an appeal to the one single jurisdiction of the city in the ancient folkmoot.

These important conclusions as to the administrative rights of the city folkmoot will help us to

[1] Miss Bateson in *Eng. Hist. Rev.* xvii. 502; *Liber Albus*, 118-119.

[2] The burghmote horn has already been noted at Canterbury. It was also extant at Ripon, and the ceremony is described in *Notes and Queries*, 5th ser. x. 254; Bray, *Tour in Derbyshire*, 276. See also my *Index of Municipal Offices*, 23.

understand its judicial rights. The husting is an integral part of the folkmoot, perhaps it is the folkmoot. Mr Maitland will have it that the husting is a house thing as distinct from a thing or court held in the open air.[1] The open-air meeting of the London folkmoot continued as we have already seen, down to the thirteenth century, and it is somewhat difficult to trace out its connection with the husting, if Mr Maitland's definition is correct. I venture to suggest, however, that it is not. I think "husthing" is the "thing" formed by the housemen of the community, the men who owned a homestead, the full members of the ancient tribal organisation and Icelandic law should tell us this much.[2] That the folkmoot became divided into two, as events marched on, is the way I read the evidence. Administratively it passed into the Common Hall; judicially it passed into the husting. This kind of change seems to be apparent throughout the entire history of the primitive assembly as it passsd into the local court. Thus in the case of the Manorial Court, as Sir Henry Maine pointed out,

"three courts are usually included which legal theory keeps apart, the Court Leet, the Court Baron, and the Customary Court of the Manor; I think there cannot be reasonable doubt of the legitimate descent of all three from the assembly of the township,"[3]

and thus I would put it of the folkmoot in relation-

[1] *Domesday and Beyond*, 211. This is the Bosworth and Toller definition in *Anglo-Saxon Dictionary*, s.v., but there is no authority given, while, for the Hustings Court meeting in the open air, see Mildmay's *Elections of London*, edited by Causton, cxxvii.

[2] See the Glossary to Morris's *Saga Library*, vi. 464-466.

[3] Maine, *Village Communities*, 139, and cf. Maitland, *Select Pleas of Manorial Courts*, xvi.-xix.

ship to the Court of Husting, and the Common Hall. There is no legal establishment of the local courts,[1] and because the lord succeeds to the fiscal profits of the court just as silently as the tenants become the suitors of the court, we must not define silence in constitutional matters to mean the absence of growth from more primitive forms, and we must not accept the legal analysis of the local courts as indicative of their origin. In the burghs the burgh moot was brought into line with the national courts,[2] but it was custom, and very ancient custom, which first established the moot of the burghs, and allows of its long continuance.[3]

We are able to see the final stage in the history of the folkmoot of London from a document of the reign of Edward II. This is a record of complaint made before the justices itinerant at the Tower of London, 14 Edward II. It relates to the piece of

[1] Cf. Pollock and Maitland, *History of English Law*, i. 642.

[2] *Laws of Edgar*, ii. 5 (1); iv. 3-6 in Thorpe.

[3] I think it will be interesting to make a note of the last sitting of the Court of Husting. It is reported in the *Times*, 13th March 1901: "A sitting of the Court of Hustings, the first which has taken place for some years, was held at the Guildhall yesterday afternoon. The Lord Mayor, who was attended by the sword and mace bearers and the City Marshal, presided, and there were also present Mr Alderman and Sheriff Vaughan Morgan, the Recorder, the Town Clerk, and other high officers of the Corporation. There is a Court of Hustings of Pleas of Land, and a Court of Hustings of Common Pleas, and they are now held only when business requires. The Lord Mayor, Aldermen, and Sheriffs are the Judges, and the Recorder sits with them to pronounce the judgments of the Court. The City Solicitor (Sir H. H. Crawford), addressing the Court, said that the sitting was held for the enrolment of two deeds. One of the deeds was dated January 15, 1897, the other July 4, 1899. The Court directed the deeds to be enrolled. There being no other business to be disposed of, the sitting of the Court was adjourned."

ground upon which the citizens formerly held their folkmoot in the open air, but which was now enclosed by the Dean and Chapter of St Paul's. The complaint was that

"the Dean and Chapter of St Paul's had enclosed with a mud wall a piece of ground belonging to the King, on which the Mayor and commonalty used to hold their court which is called Folkmoot, and have also placed a post in the middle of the gate of St Augustine which should be open to all. The Dean and Chapter produce a charter of Henry I. granting to their church and to Richard Bishop of London as much of the ditch of his castle by the Thames (Castle Baynard) as shall be necessary for making a wall and a way outside the wall. They say that Castle Baynard afterwards passed into the seisin of Eustace, Count of Boulogne, who in 1106 acknowledged the claims of Maurice Bishop of London and they produce letters patent of June 10, 13 Edward I. Hamo de Chigewell Mayor of London and the commonalty declare that the ground on the east side of St Paul's where corpses have of late been buried and where the great bell tower is situated is the lay fee of the king, and that the citizens used of old to hold their court called le Folkmoot there and to enter the said bell tower in order to ring the great bell to summon the people. They also say that a piece of ground on the west of St Paul's enclosed by the Dean and Chapter is the place where the citizens used to make their congregation with the lord of Castle Baynard to have view of their armaments and defence. They also say that the space between St Augustine's gate and the gate on the west of St Paul's towards Ludgate is the king's highway."[1]

The whole of this document is of immense interest to students of ancient London. The meeting of Londoners in their folkmoot summoned by the

[1] *Hist. MSS. Com.* ix. 49.

great bell is thoroughly rich in ancient associations before the city was under the domination of sovereign king. Now it is fallen from its ancient state. That this important transaction should have taken place just at the period when king's law was penetrating into the city as into every rood of English territory; that land upon which the ancient freemen of Saxon London met in their old archaic fashion in the open air was first seized upon by the Dean and Chapter of the cathedral, and enclosed by a mud wall, and then in order to enforce the citizens' claim was deemed to be "the lay fee of the king," are two facts which illustrate the view I have taken of this period, that it was an encroachment upon an older order of things when English custom and Roman rule were standing side by side in London. The whole record is pregnant with signs of the new order of things, when Edward II., weak, vacillating, and bad as he was as a personal monarch, was the centre round which all these legal changes were operating. It is evident that by the time Edward II. reigned, London was becoming well dominated by the state government.

VI

I have now explained the fact that under the Norman government there existed powers and duties which were powers and duties of the citizens without regard to the outside authority of the state sovereignty. The Norman kings said: "I will that ye be all law-worthy," "I will that ye elect a mayor," and so on, and by these grants they made ancient citizen law

to be state law, but the charters did not absorb the whole of ancient citizen law. There was a larger body of it left, administered by the citizens as they would. The state did not touch this large body of citizen law, because at that time the state did not conceive its business to be to interfere in the citizen life of the people. Just as before the great Education Act of 1870, the state of our own times did not, to its shame, conceive its business to be to regulate the education of the people, but left it entirely to what I might term the private household law of the people, so in Norman and Plantagenet times there was much which might be termed the private burghal law of the people, and which the state was then incapable of considering as a part of state law.

All this is very technical, I am afraid, and I am afraid it differs from the views of our great legal historians. Things were so different in the Middle Ages that we cannot quite grasp the whole truth with our modern ideas unless it is very specially studied. There is to be noted one great distinction, however, and this distinction is very important to our subject. In modern days all that is left untouched by the state law remains in the hands of individuals — either in the domain of household life or in the domain of commercial life. Thus, if the state law of modern times leaves untouched the question of the kind of house which shall be built upon the green fields of our country, it is left to the choice of each householder to determine. Again, if the state law leaves untouched the question of railway construction, it is left to the action of individuals to determine. In

mediæval times, however, this was not so. What the state left untouched was most generally dealt with by the local jurisdictions. The negligence of the state did not mean action by the individual, but by the group of townsmen living their burghal life in a fashion dependent in all things outside the charter upon their own regulations. This is well illustrated by what Dr Cunningham has so aptly termed as "an interesting survival of the old municipal mode of government," when the Commons prayed that the custom of the city of London about usury might have statutable force through the realm.[1] Such an appeal to the municipal law of London to provide the state with a law for the whole kingdom at once illustrates and explains the independence of the municipality within its own sphere. It explains too how impossible it was for Norman lawyers, though trained for the purpose, to bring about a state sanction for municipal doings. So far as charters could avail they brought municipal rights within the direct command of the sovereign. So far as Norman intrusions into the municipal domain could upset or disturb city government, they introduced ward administration, soke privileges, church rules and conceptions, foreign merchant centres and gild organisation. But none of these separately, and not all of them combined, could destroy the essential unity of the city government, which had come to the city, and was deeply embedded in citizen ideal and thought for many generations of citizen life, from times which preceded the Norman sovereignty.

[1] Cunningham, *Growth of English Industry and Commerce*, i. 224.

CHAPTER X

MUNICIPAL law and usage will be better understood if we also have some knowledge of the law which was put in force by the state government itself. It will not be necessary to go into the question minutely. All that is needed is to get a basis for the comparison of municipal law and practice with state law. The two together make up the legal position of the mediæval citizen, and where state law fails there we may be sure municipal law or what is equally forcible, municipal custom, steps in. And it steps in by force of inherent right, not by legal sanction. Nothing is more indicative of the vast amount of municipal law and practice which is due to the necessities of the community from time to time, and which the municipalities took upon themselves to administer, simply because they assumed themselves to be the administering authorities and acted upon the assumption. Charters did not place them entirely beneath the state. The all embracing charter of the first William technically had this effect, but the larger details of the later charters show that the technical point was not sufficient to cover the entire position. The Norman sovereign desired to be not only theoretically supreme, but fundamentally so. But when we come to understand what the state law was, how defective

was the machinery for legislation, and what a considerable body of local law was already in existence when the state assumed full command, it will be once more made clear that the municipalities of Norman times inherited so much from earlier times that it is impossible to grant that we have any right to seek for origins from the Norman sovereignty and its charter granting powers. In particular is this the case with London. The mediæval city legislated for itself under the Norman kings as it had done under Æthelstan and the Saxon kings. Its building law of the eleventh century was just as much an inheritance from its customary position as a self-governing community as was its commercial law in the ninth century. And this was because the state law of both periods did not concern itself with these things. There is, however, this distinction between the two periods. In the earlier case the city of London brought itself sharp up against the sovereign power, and there was conflict, showing London in the position of remarkable independence to which attention has already been drawn. In the later case the city of London acted without touching the sovereign power at all. And this was because the state law had not yet penetrated beneath the shell of municipal life and did not concern itself with the domestic concerns of communities which had long known the art of self-governance.

It is for these reasons that we must endeavour to understand the subjects with which state law was concerned. Roughly speaking, we may say that it dealt with land tenure, with the Exchequer

rights of the crown, with the administration of justice. Look where we will there is very little legislation as we know it. The Normans kept up the English institutions and allowed the state to encroach where it was of service to the state. Henry's general charter abolished abuses introduced by his brother Rufus, abuses in the matter of reliefs, wardships, marriages, murder fines, and so forth, and the king required that concessions similar to those which he made in favour of his barons should be made by them in favour of their tenants.[1]

What is known as the "Assize of Clarendon," 1166, tempore Henry II., is in reality the first piece of Norman legislation which materially affects the national law. The laws of the Conqueror and of Henry I. were almost ostentatiously based upon the laws of Eadward the Confessor. The Assize of Clarendon brought down the heavy hand of the sovereign state upon the hitherto untouched local courts. Article 9 of this assize is as follows:

"And let there be no one within his castle or without his castle nor even in the honour of Wallingford, who shall forbid the sheriffs to enter into his court or his land to take the view of frankpledge; and let all be under pledges; and let them be sent before the sheriffs under free pledge."

And then follow the clauses which interest us most:

"And in the cities and burroughs let no one have men or receive them in his home or his land or his soc whom he will not take in hand to present before the justice if they be required; or let them be in frankpledge. . . . And let

[1] Pollock and Maitland, *History of English Law*, i. 72.

there be none within a city or burrough or castle or without it, nor also in the honour of Wallingford who shall forbid the sheriffs to enter into their land or soc to take those who shall have been charged or published as being robbers or murderers or theives, or harbourers of the same or outlawed or accused with regard to the forest."

Clearly all the local jurisdictions were thus brought directly under the sovereign state — what had been local justice was in future to be king's justice, in other words, what was formerly uncontrolled local Anglo-Saxon law was in future to be controlled English state law. In Clause 19 of the same famous code of Henry II. the institution of itinerant justices was provided, and of course it is known that this is the system of justice to this day. Let me quote the clause.

"And the lord king wills that from the time when the sheriffs shall receive the summonses of the itinerant justices to appear before them with their counties, they shall assemble their counties and shall seek out all who have come anew into their counties since this assize; and they shall send them away under pledge that they will come before the justices or they shall keep them in custody until the justices come to them and then they shall bring them before the justices."

It is to be noted that "the lord king wills" all this, the formula, as I have before pointed out never used before the conquest, and expressing after the conquest the sovereignty of the state.

If we next turn to the great charter itself, the Magna Carta, as we all know this famous document is called, what are its provisions? I am sure they have not been studied by our historians in the right

perspective; I am sure Magna Carta does not mark so great an era as many less famous documents. I will summarise its provisions:—(1) the English Church to be free and have its rights intact and its liberties uninfringed; (2) the heir of any earl or baron shall have his inheritance by paying the ancient relief to the crown; (3) the heir not of age shall when he comes of age, have his inheritance without relief and without fine; (4) the administrator of the land of an heir in ward shall take none but reasonable issues from the land; (5) the administrator of such lands to keep the houses, parks, warrens, lakes, mills, etc., in order, and to restore to the heir when of age his whole land stocked with ploughs and wainages; (6) heirs to be allowed to marry without disparagement; (7) a widow to have her marriage portion; (8) no widow to be forced to marry; (9) revenue not to be seized for debt, so long as the chattels of the debtor suffice to pay the debt; (10) any one borrowing from a Jew and dying before the debt is paid, the heir shall not be liable for interest so long as he is under age; (11) any one dying and owing a debt to the Jews, his wife shall have her dower, and shall restore nothing of the debt; (12) no scutage or aid shall be imposed upon the realm unless by the common counsel of the realm; (13) the city of London shall have all its old liberties and free customs as well by land as by water, moreover, we will and grant that all other cities and boroughs and towns and ports shall have their liberties and free customs; (14) common counsel of the realm to be summoned for a fixed day, after forty days' notice, and for a fixed

place; (15) no one to take an aid from his freeman; (16) no one to do more for the knights service than is due from it; (17) common pleas to be held at a certain fixed place; (18) two justices to be sent through each county four times a year, who with four knights chosen by each county shall hold the assizes of the county; (19) justices to remain beyond the day appointed if necessary; (20) a freeman not to be amerced beyond the measure of his offence; (21) earls and barons not to be amerced save through their peers; (22) clerk not to be amerced for his lay tenement except according to the manner of other persons; (23) neither a town nor a man to make bridges except those who of old and of right ought to do it; (24) no sheriff constable, coroners, or other bailiffs to hold pleas of the crown; (25) all counties hundreds, wapentakes and trithings to continue at the old farms; (26) any one dying and owing debt to the crown, the sheriff may attach the chattels of the dead man to the amount of the debt; (27) chattels of intestates to be distributed to his near relatives; (28) no constable or bailiff to take corn without payment; (29) no knight to pay for castleward if he perform that ward in person; (30) no sheriff or bailiff to take the horses or carts of any freeman for transports; (31) no wood to be taken for castles except by the will of the owner; (32) lands of those convicted for a felony to be held no longer than a year and a day, when they shall be restored to the lords of the fiefs; (33) all weirs to be done away with; (34) the writ of præcipe not to be served so as to cause a freeman to loose his court; (35) weights

and measures to be common throughout the whole kingdom; (36) writ of inquest in a matter concerning life and limb to be conceded gratis; (37) wardship held by holder of fee farm socage or burhage not to be held by the crown; (38) bailiff not to put any one to his law without witnesses; (39) no freeman to be taken or imprisoned, etc., without the judgment of his peers; (40) to none will we sell, to none deny or delay, right or justice; (41) merchants to go safely and securely in and out of England; (42) any person may go out of the realm, and return to it safely and securely except during a time of war; (43) if any one hold from any escheat and shall die, his heir shall not perform other service than that in which the baron has held; (44) persons dwelling without the forests not to be summoned before the forest justices; (45) no one to be made justices, sheriffs, constables, or bailiffs, unless they know the law of the land; (46) barons who have founded abbeys shall have their custody when vacant; (47) forests constituted "in our time," to be straightway annulled; (48) all evil customs concerning forests and warrens to be enquired into and eradicated; (49) all hostages and charters "delivered to us by Englishmen as a surety for peace or faithful service," to be returned; (50) we shall entirely remove from their bailiwicks the relatives of Gerard de Athyes so that they shall have no bailiwick in England . . . and the whole following of them; (51) all foreign soldiers to be removed; (52) if any one shall have been disseized without legal sentence of his peers from his lands, castles, etc., we shall straightway restore them to him; (53) in the

matter of showing justice with regard to forests, wardships, abbeys, etc., we shall straightway exhibit full justice; (54) no one shall be taken or imprisoned on account of the appeal of a woman concerning the death of another than her husband; (55) all fines imposed by us unjustly and contrary to the law of the land shall be altogether remitted; (56) if we have disseized or dispossessed Welshmen of their lands or liberties or other things without legal judgment of their peers, they shall be straightway restored to them; (57) with regard to all those things of which any one of the Welsh was disseized or dispossessed without legal judgment by King Henry or King Richard, respite is to be had; (58) the sons of Llewelin and all the Welsh hostages to be returned; (59) we shall act towards Alexander King of Scots, regarding the restoration of his sisters and his hostages, as we shall act towards our other barons of England; (60) all the subjects of our realm shall observe with regard to their vassals, all these aforesaid customs and liberties, which shall be observed in our realm with regard to our own; (61) security is given for the carrying out of the charter; (62) pardon is given for all transgressions; (63) subjects of the king to be free.

Now when we have thus closely reminded ourselves of the provisions of our great charter, what are the impressions they leave upon the mind? The inconsequential arrangement of the clauses, the remedial measures for past wrongs, the pitiable confessions of the king's monstrous infamy—"to none will we sell, to none deny or delay right, or justice"—

the declaration of freedom; these are the salient points. Of declarations of state law there are very few, and we ascertain that the great charter of which we are taught in our schools to be so proud is merely a record of the nation's wrongs put into the shape of promises of remedy. I confess I am not proud of this document. Necessary as it was; great as was the victory gained by the barons and the people; great as was the effect of the charter—still I am not proud of this document. It tells me too much of a degradation of the nation beneath the heel of a tyrant, and not even an able tyrant; it makes too much of concessions which never ought to have been needed, and it leaves English law in scarcely so favourable a position as it was under William the Conqueror and Henry I. There is no word of the laws which affect the ordinary life and well-being of the people; there is nothing but an enormous gap shown to exist between what is demanded as national right and justice from the hands of the sovereign monarch, and what was being daily administered by the local courts as law and justice in every part of the kingdom. I consider this gap as very telling evidence in favour of the municipal laws which we have already considered. There is no point where they overlap; no point where they even touch; and so it is that we obtain the right to assert that municipal laws originated with the boroughs, were administered by the borough authorities, received their sanction from the forces reserved in the hands of the burghers from periods of history which were certainly not Norman; and

were finally brought within the jurisdiction of the state by the assumption of sovereign power to grant and annul charters, to take away the franchises and administer the affairs of the city by royal officers. The whole subject is thus dependent upon two great factors in our constitutional history, namely, the early origin of the cities and the late development of the sovereign state. The early origin of the cities is of course exemplified in many ways but in nothing more significant than in the borough courts of justice—courts with such delightful old names as the Hustings Court at London, Tolsey Court at Bristol, the Court of Morgen Speech at Ipswich, and others. The late development of the sovereign state is shown by the very gradual way in which the national law overtook municipal law.

There are, however, aspects of this great charter to which it is well to refer more particularly, first the position of London towards it, secondly the manner in which it was carried out.

I have already in these pages laid much emphasis on the special position which London seems to have held in early times as the ally of the sovereign rather than a subordinate part of the state, how it was left to itself or brought into prominence according to the needs of the occasion. The great leaders of the movement which led up to the charter took the same line. They knew the importance of London and they approached it in order to gain its adhesion to the movement in a particularly formal manner, a manner so formal as to reflect the ancient position of London before it was brought into the state

system of England. This is described quite clearly by Mathew Paris. He says that

"on the feast of St Mary Magdalene (1258) special messengers were sent to London on behalf of the community of England at large. They there convoked all the citizens who were styled barons to meet at the Guildhall, and the question was then put to them whether they would faithfully acquiesce in the resolution of the barons and adhere firmly to their cause, giving them effectual assistance in opposing their adversaries. To this they all gave a willing assent, and drew up a charter in confirmation of the same and sealed it with the common seal of the city."[1]

This is London standing in somewhat its old position, acting once more as independent unit of the nation, acting in a fashion in which no other city or borough acted or could have acted, in which no other city or borough was expected to act or called upon to act.[2]

[1] Mathew Paris, *Chronica Majora.*

[2] In my *Primitive Folkmoots* I pointed out many of the archaic features of the great meeting at Staines.

TUDOR LONDON AND ITS WALLS (*from Norden*).

Mercers

Grocers

Drapers

Fishmongers

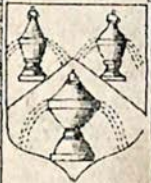
Goldsmiths

Skinners

Merchant taylors

Haberdashers

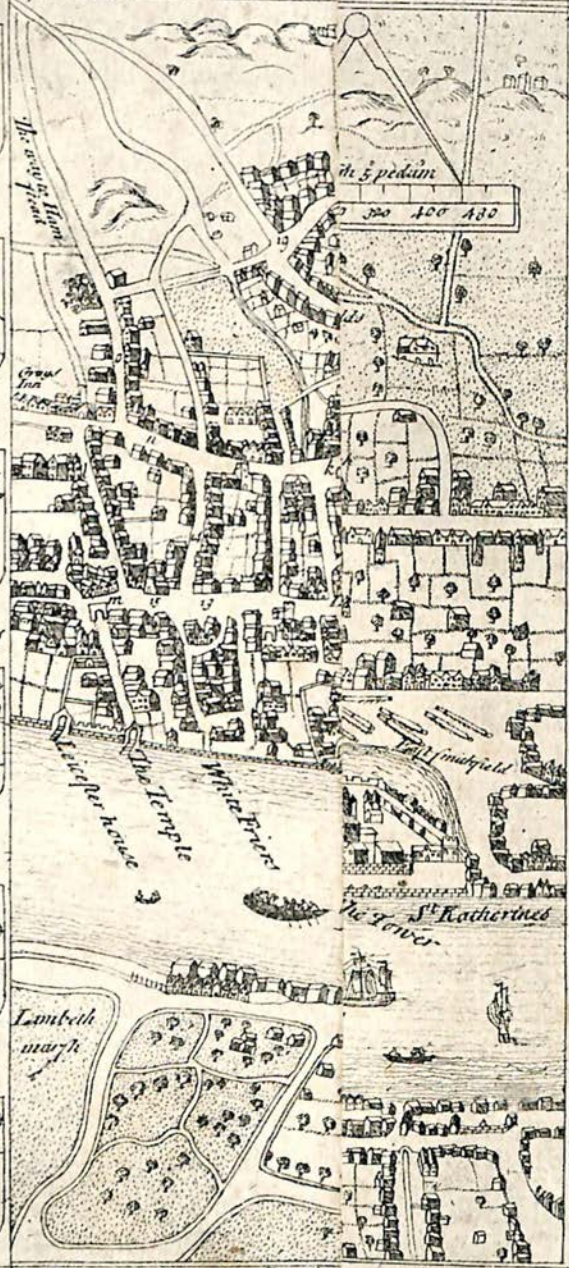
Salters.



Ironmongers.

Vintners.

Clothworkers.



Of one of the former 12 Companies is the Lord Mayor of the City Commonly Chosen

a. Bishops gate street
b. Nopie
c. Athallowes in ye Wall
d. St Taphyns
e. Silver street
f. Aldermanbury
g. Barbican
h. Alderſga Winchester house.
i. Charter h Battle bridge.
k. Holborn Bermondsey street.
l. Chancery Iohannes Norden-
m. Temple descripsit anno.

CHAPTER XI

PRACTICALLY I have now brought our subject down to the beginning of the Tudor sovereignty, and also to the end of the enquiry in its principal stages. What remains is but the detritus of the work which the Plantagenet monarchs completed. Bosworth field, which saw the death of Richard III., was, like Hastings, which saw the death of Harold II., the marking point of an historical era. Richard was an able monarch, perhaps one of the ablest. His career was fettered, according to the best authorities, by crime, but I am myself much more inclined to believe that the chief cause of his misfortune was the change of political circumstances. England had up to this period been feudal England. Richard was feudal king. The feudal sovereignty had strengthened itself by the support of the towns against the baronage; it had fought out its dynastic quarrels with all the bitterness of tribal warfare. The feudal baronage, after losing much of its strength during the strengthening of the monarchy, had annihilated itself at Towton, Barnet, and Bosworth. The Earl of Warwick and his brother Montagu standing in their last ditch at Barnet, the Earl killing his horse before his army with all the old feudal significance—the whole story, as it is written in history, and as it has found its way into legend and romance, is full of the drama of an expiring

world. The new world was to be different. Commerce was to rule its ways and to govern events. Feudal dues were to give way to economical laws. Discovery and adventure were to be the passwords of the new life. The hero of the old world was perhaps Henry V.; the hero of the new world was to be Drake and, later on, Gresham.

The effect of this change upon the boroughs was soon felt. They were no longer necessary to protect the manufacturer from molestation and destruction, and they depended for their existence not so much upon their capacity for defence—their walls and gates—as upon their position in the European centres of commerce. Accordingly we find the older towns falling into decay, "many and the most part of the cities, burghs, and towns corporate within this realm of England be fallen into ruin and decay," are the words of a statute of 3 Henry VIII. c. 8. These were the towns which had depended entirely upon feudal conditions, and, feudal conditions ceasing to operate, the usefulness of such towns disappeared. Commercialism, and all that commercialism meant, was going to change the face of England, and particularly in the cities and towns would that change be felt. Cities and towns that had grown up under a system almost of communal trading, town vying with town, gild with gild, aliens with natives, but always groups of people with groups of people, not individuals with individuals, were to give way before the new order of things. One can see much more of the old boroughs when they were breaking up under the new

order. Their inner machinery was laid bare before it was destroyed, and we can see inside a system which, when it was in normal working order, was only visible by its results. Let any one read the famous sermon of Bishop Latimer, or the still more famous romance of Sir Thomas More, "Utopia," and the mainspring of the old condition of things which was then passing away is seen to be community of interests, not individualism. Latimer and More deplored the appearance of competition, the idea of each man seeking to be richer than his neighbour, and declared it to be contrary to the laws of God and man, for each to seek his own profit independently of the profit of the community. Latimer and More were in fact witnessing the break up of the old burghal life, and the commencing of the new commercial life. This old burghal life had to go like other things that are not of the present, but the going was a horrible process to those who could not go with it, or could not help in its going.[1]

The decay of the old cities and burghs, representatives of the older national life, was followed by

[1] Cf. *Social England*, iii. 144. This feeling is reflected in the prayer-book of Edward VI., which contains the following remarkable prayer:

"For Landlords. The earth is thine, O Lord, and all that is contained therein; notwithstanding thou hast given the possession thereof unto the children of men, to pass over the time of their short pilgrimage in this vale of misery: We heartily pray thee to send thy holy Spirit into the hearts of them that possess the grounds, pastures, and dwelling-places of the earth, that they, remembering themselves to be thy tenants, may not rack and stretch out the rents of their houses and lands, nor yet take unreasonable fines and incomes after the manner of covetous worldlings, but so let them out to others, that the inhabitants thereof may both be able to pay the rents, and also honestly to live, to nourish their families,

the uprising of an entirely new set. Manchester, Birmingham, Sheffield (later), Leeds, Wakefield, and others were rising into new-born affluence. They sought to keep in their own hands manufactures of particular kinds. Thus by Act 21 Henry VIII. c. 12, Bridport in Dorsetshire was granted a monopoly for "the making of cables, hawsers, ropes, and all other tackling," and by 25 Henry VIII. c. 18, Worcester, Evesham, Droitwich, Kidderminster, and Bromsgrove were similarly granted monoplies for manufacturing "all manner of cloths, and exercising shearing, fulling, and weaving," while York, by 34 and 35 Henry VIII. obtained a monopoly in the manufacture of coverlets and blanketings.[1]

London's great commercial position soon asserted itself. Antwerp had been ruinously sacked in 1567, and again in 1585, and Antwerp's ruin was London's gain. Many Protestant Flemish merchants and manufacturers fled to England, and Sir Thomas Gresham promised them peace and welcome. In 1588 there were thirty-eight Flemish merchants established in London, who subscribed five thousand pounds towards the defence of England against the Spanish Armada.[2]

and to relieve the poor: give them grace also to consider, that they are but strangers and pilgrims in this world, having here no dwelling-place, but seeking one to come; that they, remembering the short continuance of their life, may be content with that that is sufficient, and not join house to house, nor couple land to land, to the impoverishment of others, but so behave themselves in letting out their tenements, lands, and pastures, that after this life they may be received into everlasting dwelling-places: through Jesus Christ our Lord. "Amen." (*Two liturgies of Edward VI.*, Parker Society, vol. xiv. p. 458.)

[1] Gibbins, *Industry in England*, 239.

[2] Gibbins, *op. cit.* 230.

The first settlement of these strangers, however, had been at Sandwich, to which town license was given in 1561 to receive from twenty to twenty-five master workmen with their families and servants, who were to exercise there "the facultie of making sacs bay, or other cloth, and for fishing in the seas." In 1565 the mayor and corporation of Norwich asked and obtained leave "to have some of these strangers in their town where the weaving industry was decaying." Southampton and Maidstone petitioned to have strangers allotted to them in 1567, and the requests were acceded to. Colchester received eleven foreign households in 1570; and other settlements were at Stanford, Halstead, Yarmouth, Lynn, and Dover.[1]

Now these immigrant manufacturers and traders formed companies for their mutual protection, and this led to the old craft gilds of the English boroughs being revived or reorganised under Elizabeth, after their destruction by Edward VI. These reorganised companies differed from the more ancient craft gilds in three ways: (1) they were directly or indirectly authorised by the crown if not by Parliament, and they did not derive their authority from the municipalities; (2) they were obliged to pay for their patents or charters, and they were associations of capitalists rather than craftsmen; (3) so many different callings were amalgamated in the new companies that there could be no pretence of effective supervision of wares.[2]

[1] Cf. Cunningham, *Growth of English Industry and Commerce*, ii. 36.
[2] Cunningham, *op. cit.* 47.

In some few cases the companies were empowered by statute to exercise supervision over the quality of goods. Thus the wardens of the London haberdashers were to have a right of search in regard to the hats and caps which required so much oversight. All men living within three miles of the city of London and working at leather crafts were to make their payment to the London companies, and to be under the survey of the wardens. The companies of the curriers, saddlers, and shoemakers were recognised as the proper authorities for seeing into these matters. And when a series of disgraceful frauds were discovered on the part of the goldsmiths in 1574, the warden and fellowships of the company were made liable for any loss that occurred if plate which bore their mark were not of the proper touch.[1]

But this favourable reception given to foreign artisans in the cities and towns has its reverse side, and it illustrates the decay of municipal institutions. This picture is represented by a London incident. The incident appears to have begun through the action of a broker named Lincolne, who induced Dr Bell, who was preaching at St Mary Spital on the Tuesday in Easter week, 1517, to read from the pulpit a paper in which he had stated "the griefs which many found with strangers for taking the living away from artificers and the intercourse with merchants." Dr Bell in his sermon explained

"how this land was given to Englishmen, and as birds defend their nests so ought Englishmen to cherish and maintain themselves, and to hurt and grieve aliens for respect of their

[1] Cunningham, *op. cit.* 48.

commonwealth. By this sermon many a light person took courage and openly spoke against strangers, and as unhap would there had been diverse evil parts of late played by strangers in and about the city of London which kindled the people's rancour more furiously against them. The 28th April diverse young men of the city picked quarrels to certain strangers as they passed by the streets, some they did strike and buffeted, and some they threw into the channel, wherefore the Mayor sent some of the Englishmen to prison. . . . Then suddenly arose a secret rumour and no man could tell how it began, that on May Day next, the city would slay all the aliens, in so much that diverse strangers fled out of the city."[1]

The rumour came to Wolsey's ears, and after consulting with him the city authorities ordained that every man should shut his doors and keep his servants within from nine at night till nine in the morning. This was proclaimed, but not very generally, and Alderman Sir John Mundie, on his way home found two young men in Cheap playing "at the bucklers," and a crowd of others looking on. He ordered them to desist, and would have sent them "to the counter," but the prentices resisted the alderman, taking the young men from him, and crying "Prentices and clubs." "Then out at every door came clubs and other weapons so that the alderman was fain to fly. Then more people arose, out of every quarter forth came serving-men, water-men, courtiers and others," to the number of nine hundred or one thousand. They rescued the prisoners who had been locked up for mishandling strangers.

[1] Stow, *Annals*, anno 1517.

They plundered all the houses within St Martins; near Leadenhall they spoiled diverse Frenchmen, who lived in the house of one Mewtas, and if they had found this same Mewtas "they would have stricken off his head," and they broke up the strangers' houses at Blanchapleton and spoiled them.[1]

All this shows conflict between the new and the old ideas of municipal life—the old ideas that the cities were for the citizens who inherited their rights and privileges and who acted through their municipal organisation, and the new ideas that the cities were for the enhancement of trade and industry brought about, not by inheritance but by the successful carrying out of commercial ideas and rules, and which depended not upon municipal organisation but upon industrial prowess. Nowhere does it appear to me is the change from feudal to commercial times more forcibly seen than in the complete alteration of the municipal ideal. Norman and mediæval London, it is true, was a change from Anglo-Saxon London, but it was a change necessitated by the new development of state power, and was fought against by the Londoners until the last. Tudor and later London was a further change brought about, not from above but from below. The old communal life was dead, and its place was taken by a half-hearted municipalism which did not fight for its ancient rights because it did not believe in them, and which did not take upon itself the new and necessary duties because it did not desire them.

[1] See Cunningham, *op. cit.* i. 509-511.

This decay of the municipal ideal is illustrated by the interference of the court in the domestic matters of the city—an interference which would never have been tolerated in the days when the citizens of London were fighting for their privileges even within the walls of the Tower itself. The city stooped very low, but I think the city records show that the crown stooped lower still. Letter after letter exists among the archives, from the great Queen Elizabeth, from the drivelling James I., and from the more dignified Charles I., asking that their friends should be appointed to city offices. On the 25th May 1580 my Lords of the Council, by command of the queen, wrote to the Lord Mayor and Aldermen soliciting the grant of the office of salt meter or seacoal meter for one John Hubbard. On the 30th May, five days later, appears a letter from Sir Francis Walsingham to the Lord Mayor and Aldermen, requiring the election of a water bailiff to be stayed until the queen's pleasure should be signified to them. On the 9th January there is a letter from Lord Burghley, the Earl of Leicester, and Sir Francis Walsingham, Lords of the Council, to the Lord Mayor and Court of Aldermen, requesting the vacant place of attorney in the Guildhall might be given to a certain Valentine Penson. On the 20th August 1581 Sir Christopher Hatton, Vice-Chamberlain to Her Majesty, wrote to the Lord Mayor, reminding him of the letter he had written to him by command of the queen, recommending William Parker for the office of alnager, to which no answer had been received. Her Majesty desired her letter might be read at

the next Court of Aldermen and an answer sent forthwith. On the 4th September 1581 yet another letter was sent on the same subject, and on the 15th of the same month the Lord Mayor and Aldermen send their reply. And this is the reply! They say that Parker had long since been admitted to the office of alnager. Being in difficulties he had requested permission to part with his office to a person named by him, whereupon the city accepted an honest young man, some time servant to one Peter Osborne, who paid to Parker one hundred and sixty pounds for the place. Upon receipt of other letters from the Lord Treasurer requesting that Parker might be helped with a creditor to whom he owed two hundred marks, a lease of one of the city's houses had been granted to him, valued one hundred marks. Subsequently he desired to replace his nominee; this was agreed to upon his paying back the purchase-money, which, however, the latter had refused to accept. Being still desirous further to help him, an agreement had been made to grant him thirty pounds yearly out of the common charge, so long as he should demean himself and cease his importunities and not alienate the same but keep it to his own use.

One may well ask if there could be a more shameful piece of evidence of the decay of the old London municipal spirit and practice, or of the depths to which the royal court could descend? And yet I think even this can be worsened. The office of coal meter, asked for, as I have noted, for one John Hubbard, was not granted at the time, and on

21st March 1576 there is a letter from Sir John Langley, Lord Mayor, intimating that the offices of coal meter and salt meter were not then vacant, and that by the laws of the city they could only be granted to freemen by birth or servitude; all grants otherwise made would be void. The appointments to the offices of measurers were vested in the mayor for the time being, and there was no help but by the Common Council. He hardly supposed the Lord Treasurer would think it meet that they should be assembled and Her Majesty's request and name publicly used for so small a matter—for so small a matter! But Sir John Langley, Lord Mayor of the city of London, did not know the court of Elizabeth, Queen of England. A letter dated from Barne Elms on 20th July 1582 was received from Sir Francis Walsingham by the Lord Mayor Aldermen and Common Council—the full municipal authority, that is to say—reminding them of a previous letter to them by command of the Queen requesting a coal meter's room for Hubbard. They had promised him the next vacancy, notwithstanding which they had placed two before him, one of them specially recommended by the queen, the other by private favour. He was surprised at their want of reverence to Her Majesty, and recommended the assembling of the Common Council and their taking order for displacing of the new coal meter and bestowing it upon Hubbard, fearing otherwise that the queen would take it offensively, and that they would perhaps repent the little care they had had to satisfy her request in a matter of so small importance. I

will quote still one further example, the record of which tells its own tale. The Lord Mayor on February 1582 wrote to Sir Francis Walsingham, acknowledging Her Majesty's letters to the Common Council in favour of the appointment of Dr Cæsar as deputy to Bernard Randolph, common serjeant, and that a reversion of the office might be granted to him, because through age and infirmities Randolph was unable to fulfil his duties. The matter had been brought before the Court of Aldermen and Common Council, when Mr Randolph had been moved to consent to pass over the execution of his office by deputation to Dr Cæsar. He had in both courts delivered openly his answer in tears, declaring his desire to remain and to die an officer of the city, and his most humble petition that intercession might be made for him to Her Majesty not to command him to be removed. The Common Council were not desirous to make alteration in his case, but to be humble petitioners for him to Her Majesty. With regard to Dr Cæsar, however otherwise he might be qualified for the efficient performance of the office, it would be necessary that the officer should understand the common laws of the realm by which the city cases were governed, and not by the civil laws. One would think this letter would have settled the matter, but not at all, for on the 17th May 1583 Walsingham wrote again urging Dr Cæsar's claim.

These examples are perhaps the most prominent, but they are not the only ones. There are many such, only less significant in detail because they are less important in character. Occasionally the city kicks

and "begs that in respect of their ancient liberty of a free election they might be spared from engaging themselves beforehand to any man," but the court always insists and city liberties are calmly placed on one side. Occasionally the court is less exacting, but the city gives way,[1] until in Charles II.'s time we have the situation summed up by Pepys—"as the city is now there is no great honour nor joy to be had in being a public officer."[2]

The charters of this period show the same story of change which was coming over municipal life. Thus Henry VIII.'s second charter is devoted to cancelling a patent to Sir William Sidney of the great beam and common balance of the city, and declaring that the keeping the said beam and weights pertain to the city by prescription, and ordering that the weights and beams for weighing merchants' commodities be in the hands of persons chosen by the mayor and commonalty, with power and authority to the mayor, commonalty, and citizens to make and assign clerks, porters, etc., of the great beam and balance, and of the iron beam and of the beam of the steelyard and weights, with all the fees and profits thereto belonging. Although there are important grants during this period, all the charters refer to matters connected with the inspection and weighing of merchandise. One clause in a charter of Charles I. contains the interesting clause that "the citizens for the better finding out their respective dwellings might hang out signs."

[1] The authority for these statements is to be found in the *Remembrancia*.

[2] Pepys' *Diary*, Sept. 11, 1667, vii. 109.

During the period of Wolsey's ascendancy under Henry VIII., Parliament was virtually non-existent, and during times when Parliament was weak or was not called together for long periods of time, the centres of local government were more important. London was ever the milch-cow of the Tudor and Stuart sovereigns. When Henry declared for war with France, Wolsey in 1525 demanded an amicable loan, as it was called, and commissioners were appointed in every shire to assess property, and to require that "the sixth part of every man's substance should without delay be paid, in money or plate, to the king for the fortunes of his war." London and all parts of the kingdom opposed this scheme, and the commission was withdrawn. When the cardinal announced to the mayor and corporation the abrogation of the commission, he assured them that the king would take nothing from them except a benevolence or free grant. The mayor and corporation, however, resisted this new attempt to obtain money, and one of the citizens declared, at the assembly, that by the statute of Richard III. no such benevolence could be legally demanded. Wolsey retorted that Richard was a usurper and murderer; if so evil a man, how could his acts be good? "An't please your grace," was the reply, "although he did evil, yet in his time were many good acts made, not by him only, but by the consent of the body of the whole realm which is the Parliament."[1]

Municipal life changed, too, under the conditions of the civil war. All England had mustered to fight

[1] *Social England*, iii. 17.

the Spaniard under Drake, and the victory over the Armada is a matter in which every Englishman can take pride — certainly every Londoner, for London's contribution was a great one. But at the time of the civil war all England was divided between the two camps, and the towns took their sides and sent their regiments to fight almost with the spirit of old days, when towns were political units to be dealt with by treaty. Let me relate London's contribution to this great episode. As every one knows, London took the side of liberty against oppression, fought for Hampden and his country against King Charles and his clique. For this purpose I will give the figures of the London regiments from which Essex took the troops which fought so well at Newbury. When they mustered in Finsbury field in September 1643, their strength was as follows:

	Men	Officers	Total
White Regiment .	1120	70	1190
Yellow . . .	954	70	1024
Orange . . .	1038	63	1101
Green	800	63	863
Tower Hamlets . .	1234	70	1304
Southwark . . .	1324	70	1394
Westminster . .	1858	80	1938
Blue	...	...	1400
Red	...	...	1100

One regiment was commanded by a baronet from Rutlandshire, but most of the others by aldermen. The captains were nearly all merchants or large shopkeepers.[1] One would like to know more about these citizen soldiers led by their aldermen. We

[1] *Social England*, iv. 236.

who have gone through the long history of London are not quite surprised to hear of them, for we remember the gallant Sheriff Ansgar, who fought at the head of his Londoners at the battle of Hastings, and was carried back through the streets of his beloved city wounded and dying, but strong enough yet to do duty for the city in the coming struggle with William. We know, too, that for the great struggle between John and his barons in 1264, the third division of the army of the barons was composed of Londoners commanded by Nicholas Segrave.[1] We can read for ourselves the picturesque mustering of the citizens, tempore Henry VIII., in the "comon felde between Myle End and Whyte Chapell," the ancient place of muster, in order to meet the threatened invasion of England at the instance of "the cancard and venemous serpent Paule bysshope of Rome."[2] And one would like to see continuity in these things, to be assured that the soldier citizens of London, who fought so gallantly at Newbury, led on by their aldermen, were the real successors of the soldier citizens of King Harold's days—the successors in turn of the soldier citizens of the city which began its existence in almost independence of the state. The question is a most interesting one, and in the military side of the old burghal life, I am inclined to think we can trace some of the oldest links with the past, which take us back before the period of Anglo-Saxon history.

I have hitherto said nothing about the connection

[1] Mathew Paris, *Chronica Majora*, sub anno.

[2] This is printed entire in *Archæologia*, xxxii. 30-37.

of the boroughs with Parliament. This has not been necessary, because in older London it did not affect the municipal position. In Tudor and later times, however, it affected municipal institutions very materially, and in fact formed one more element in their decay.

I will shortly sketch the early history of borough representation. It began, as is well known, in the reign of Henry III., when that great man, Simon de Montfort, Earl of Leicester, immediately after the battle of Lewis in 1264 summoned two knights of each shire to a Parliament, and in December of the same year summoned another Parliament consisting of two knights from each shire, and "two discreet and lawful representatives from the cities and boroughs."

Two points call for notice here. Parliament ceased to be an assembly of all the magnates of the land, and became a representative assembly; cities and boroughs, over and above their own internal affairs, had to send a representative to Parliament, and thus to take part in national matters as well as municipal.

The change introduced by these two facts was enormous. No doubt, at first, it was not felt to its full extent. No doubt, as in 1269, the precedent of 1264 was set aside, and the king proceeded to hold a Parliament of the barons who had been in attendance at the great court held for the translation of St Eadward the Confessor, and the men of the cities and boroughs, who were also in attendance, were not included in the Parliament. But the event of 1264 was to live on for centuries, was indeed in principle never to die out

again. In 1273, at Hilary tide, a great convocation of the whole realm was held to take the oath of fealty to Edward I., and to maintain the peace of the realm "thither came archbishops and bishops, earls and barons, abbots and priors, and from each shire four knights, and from each city four citizens."[1] The preamble of the statute of Westminster of 1275 declares the assent of archbishops, bishops, abbots, priors, earls, barons, "and the community of the land thereto summoned." In 1282 the two councils of Northampton and York contained four knights of each shire, and two representatives of each city and borough. In 1283 the Parliament of Shrewsbury comprised representatives of twenty-one selected towns separately summoned, and two knights of each shire, and in 1295 two knights from each shire, two citizens from each city, and the two burghers from each borough attended the Westminster Parliament.[2]

From this time Parliament was always a representative body, and the cities and boroughs took their share in the national work. Of the elections of city and borough members we have no details relating to the early period except in the case of London, and I will give a few notes on these.[3] In 1296 all the aldermen and four men of each ward met on 26th September and chose Stephen Aschewy and William Herford to go to the Parliament of St Edmunds, and on the 8th of October the "communitas" was called together, namely, six of the

[1] Stubbs, *Const. Hist.* ii. 223. [2] *Ibid.*

[3] Students of this subject should consult a parliamentary return on the subject published in 1878.

best and most discreet men of each ward, by whom the election was repeated and probably confirmed.[1]

It is probable that each town elected its members according to the custom of each town and not according to any general rule. At all events in London we find evidence of this. In 1346 an ordinance was passed by the city varying the practice already described in the election of 1296. In 1375 another change took place: the elections were to be made by the common councilmen, and the common councilmen were to be nominated by the trading companies. From this date to 15 Edward IV. the elections were transacted by a body summoned by the Lord Mayor from a number of persons nominated for the purpose by the companies, and in 15 Edward IV. the franchise was formally transferred to the liverymen of the companies,[2] and the liverymen of the city of London companies still exercise the privilege of voting for members to represent the city, an anachronism which is defensible only on account of its antiquity.

This sketch has been necessary to explain the more ancient position of the cities and boroughs in connection with Parliament. Changes took place; important points arose in London and other places, which it would be very interesting to trace out in detail. But these relate to mediæval England, and they leave the boroughs practically where they were at the beginning. The influence they exerted in Parliament was not great; a tendency to precision in mercantile legislation, a somewhat illiberal policy

[1] Stubbs, *op. cit.* ii. 234.

[2] *Ibid. op. cit.* iii. 424.

towards the towns who were not privileged, and an anxiety to secure local improvements are practically all that can be detected.[1]

With the rise of commercialism under the Tudors, however, things changed rapidly. The towns increased in importance. Many of them who in older times had discontinued sending members to Parliament now claimed the privilege of doing so, and the crown woke up to the importance of Parliament.

At this stage begins the decadence of municipal institutions. The crown interfered in elections in a most shameless fashion, and in the end municipal institutions were nearly destroyed. Henry VIII., all powerful as he was, got his own nominee, Sir Ralph Sadler, returned for Oxford. Sixty-two members were added by Elizabeth at different times to the representation of towns, as well from places which had in earlier times discontinued their franchise as from those to which it was first granted, a very large proportion of them being petty boroughs evidently under the influence of the crown or peerage.[2] There is much reason to believe that Edward VI., in erecting new boroughs, acted upon the deliberate plan of strengthening their influence among the commons. Twenty-two boroughs were created or restored in this short reign. Mary added fourteen to the number, and Elizabeth pursued the same policy. A circular letter of Edward VI. remains. It is addressed to all the sheriffs, and commands them to give notice to the freeholders, citizens, and burgesses within their

[1] Stubbs, *op. cit.* iii. 559, 589.

[2] Hallam, *Const. Hist.* 193.

respective counties, "that our pleasure and commandment is that they shall choose and appoint as nigh as they possibly may, men of knowledge and experience within the counties, cities, and boroughs," but, nevertheless, that when the privy council should "recommend men of learning and wisdom in such case their directions be regarded and followed."[1]

The whole course of municipal life was now changing. Political, not local government, was the guiding principle. With the power of electing a member of Parliament in their hands the municipalities first parted with the privilege secured to them by an act of Henry VI., that only citizens were to be elected, and then allowed the crown and its ministers to use them for their own purposes. Worse was to follow. Under Charles II. the Rye House plot was made the pretence for a wholesale crusade against the boroughs. The Court of King's Bench pronounced that the franchises of the city of London were forfeited to the crown. Flushed with this great victory, the Government proceeded to attack the constitution of other corporations which were governed by Whig officers, and which had been in the habit of returning Whig members of Parliament. Borough after borough was compelled to surrender its privileges, and new charters were granted which gave the ascendency everywhere to the Tories.[2]

Under James II. the last stage of degradation was reached. His attempt to force his "declaration of indulgence" upon the kingdom so as to legalise the Roman Catholic Church in Great Britain was

[1] Hallam, *op. cit.* 67. [2] Macaulay, *History of England*, i. 128.

begun by putting the new charters into force and dismissing the borough magistrates. This was done without limit. It was by no means clear that the king had the power of appointing magistrates, but he assumed it. Everywhere, from the Tweed to Land's End, Tory functionaries were ejected, and the vacant places were filled with Presbyterian Independents and Baptists. In the new charter of the city of London the crown had reserved the power of displacing the masters, wardens, and assistants of all the companies. Accordingly, more than eight hundred citizens of the first consideration were turned out of office by a single edict. But scarcely had the new office-bearers been sworn in than it was discovered that they were as unmanageable as their predecessors. At Newcastle the crown appointed a Roman Catholic mayor and a Puritan alderman. No doubt was entertained that the municipal body thus remodelled would vote an address promising to support the king's measures. The address, however, was negatived. The mayor went up to London in a fury, and told the king that the Dissenters were knaves and rebels, and that in the whole corporation the Government could not reckon on more than four votes. At Reading twenty-four Tory aldermen were dismissed and twenty-four new aldermen were appointed. Twenty-three of these immediately declared against the indulgence, and were dismissed in their turn. In the course of a few days the borough of Yarmouth was governed by three different sets of magistrates, all equally hostile to the court. These are examples of what was passing all over the kingdom. The

Dutch Ambassador informed his Government that in many towns the public functionaries had within one month been changed twice and even thrice, and yet changed in vain.[1]

These events happened in the boroughs which had already forfeited their old charters and received back new charters containing a right of revocation reserved to the crown. Still more violent methods were adopted in the remaining boroughs. They were commanded to surrender their charters. Judge Jefferies, who went the northern circuit in 1684, boasted that "he made all the charters like the walls of Jericho fall down before him, and that he returned laden with surrenders, the spoils of the towns."[2] In several towns the right of voting was taken away from the commonalty and given to a very small number of persons, who were required to bind themselves by oath to support the candidates recommended by the Government. At Tewkesbury, for example, the franchise was confined to thirteen persons, and when many of this number were deemed doubtful the court threatened to reduce it to three. Meanwhile the great majority of the boroughs firmly refused to give up their privileges. Dunstaple, Winchester, and Buckingham distinguished themselves by the boldness of their opposition. Oxford declined to surrender by eighty votes to two.[3]

In the midst of all this London stood idle. The power of charter-giving in the hands of an

[1] Macaulay, *History of England*, ii. 85-86.
[2] Chalmers, *Local Government*, 69.
[3] Macaulay, *loc. cit.*

unscrupulous sovereign was now to be seen at its height. Norman charters were given in obedience to a conception of state government which was at the time unknown to London and to other municipal towns, but their object was the building up of the state, and hence they held their own. Stuart charters were for the undoing of the state, and so fallen had become the municipal spirit of London that it accepted without a murmur this new state of things. "I was present," records John Evelyn in his diary (18 June 1683),

"and heard the humble submission and petition of the Lord Maior, Sheriffs and Aldermen on behalf of the citty of London, on the guo warranto against their charter, which they delivered to his Majesty in the Presence chamber. It was delivered kneeling and then the King and Council went into the Council chamber, the Maior and his brethren attending still in the Presence chamber. After a short space they were called in and my lord Keeper made a speech to them exaggerating the disorderly and riotous behaviour in the late election and polling for Papillon and Du Bois after the common Hall had been formally dissolved; with other misdemeanours libells on the government etc.; by which they had incurred his Majesty's high displeasure; and that but for their submission and such articles as the King should require their obedience to, he would certainly enter judgment against them which hitherto he had suspended. The things required were as follows: that they should neither elect Maior, Sheriff, Alderman, Recorder, Common Serjeant, Towne Clerk, Coroner, or Steward of Southwark without his Majesty's approbation, and that if they presented any his Majesty did not like they should proceed in wonted manner to a second choice; if that was disapproved his Majesty to nominate them; and if within three daies they thought good to assent to this all former

miscarriages should be forgotten. And so they tamely parted with their so ancient privileges after they had dined and been treated by the King."

"After they had dined and been treated by the king"! There is hardly any more pitiable record than this in the whole history of London. It is not enough to know that when James had convinced himself that the country would not stand this odious tyranny he restored the charter, and the Chancellor was sent in state to carry back the venerable document to Guildhall on 8th October 1688,[1] for it could never more be the same charter that it was before, after passing through such indignity. The whole story of charter grants, which has been investigated in these pages, makes this end of it understood in a manner which is impossible to the bare record of the seventeenth-century historian, however eloquently written, for the descent from the high level of constitutional doctrine to the depths of tyrannous autocracy cannot otherwise be shown, and it is these depths which tell the story.

It is not surprising to see London during and after this period parting with its ancient municipal rights, letting slip all chances it might have had of improving them with the changed times, allowing itself to fall back municipally without an ideal, without even a message from its great past to tell the people who were building up a new London what the old London had accomplished.

From this point, indeed, the governance of

[1] Macaulay, *History of England*, ii. 147.

London has little or no interest to the student of English institutions, and no interest whatever to the student of institutions in general. It sins against all principles of local government. It disregards the doctrine of general utility upon which all government must be founded, and the doctrine of the greatest good for the greatest number upon which alone government by power is justified. It disobeys the cardinal rule that representation and taxation should go together by collecting taxes and impositions beyond its area for the benefit of those within its area—the octroi duties collected at its gates down to the year 1856; the coal and wine duties applied to city purposes up to 1861; the corn duty applied to city purposes up to 1872; and the tolls and dues levied at its markets to this day, and still applied to city purposes only. From this point, too, the place of London in English institutions has entirely changed its character. The living principle has passed into the larger and nobler London which is now working to its place, that London which, as the greatest self-governing local community in the world, has still to solve the problem of its development and ultimate form.

It is astonishing how these facts are illustrated by the older facts of London's history as worked out in these pages. London as a city within its ancient boundaries and retaining its privileges is a mere survival, and a survival, too, not from the best periods of its history, from the ideal of Roman Lundinium, the efforts of Anglo-Saxon London, not even from the charter of William the Conqueror. It is only a survival from those dishonoured charters restored

by the graceless necessities of James II. As a survival it takes its place among the bundle of petty jurisdictions by which London was governed up to 1855,[1] as Sir Benjamin Hall showed, and by which it is still attempted to be governed. The description of Norman London by Bishop Stubbs, already quoted and disproved, would apply almost word for word to modern London. The city uses its ancient territorium for taxation purposes as far as it is still permitted, and much in the same way as it did in Roman times. It is encompassed by the community which has grown up around it, and from which it separates itself as it did of old when Anglo-Saxon life first began to make itself felt. It clings to old customs and old ceremonial as the mediæval city did, in order to keep out new ideas and conceptions which it holds to be inimical to its interests. At every point the position of London as a survival of ancient English institutions is illustrated best by the use of the historical terminology to which readers of this study have now been accustomed. In one respect this condition shows the great force of historical origins in fashioning the future of institutions. In another respect it shows the weakness of the forces of social evolution, and the length of time it takes to change from the old to the new. In both respects we are brought to the last word on the governance of London and its place among English institutions.

[1] I have summarised the facts which illustrate this important aspect of modern London in my small volume on *London 1837-1897*.

CHAPTER XII

If I attempt a rough summary of what I hope may be accepted as a fair effort to ascertain the place which London occupies among English institutions, I must commence by pointing out that the argument for the view adopted has been continuous throughout, and has never once had to be deflected. What was true of Anglo-Saxon London was true of Norman London and of Plantagenet London. Wherever we have paused for facts or for illustration, we have been obliged to turn back to Roman London for the key to the position. Wherever we have sought for parallels in the domain of comparative history, whether in respect of some detail as at Monmouth or Cirencester, or in respect of great principles as at Exeter and other Roman cities left to Britain, we have found confirmation of the views held of the London evidence. In the long vista of years through which we have to penetrate to arrive at beginnings, there is, as it appears to me, no halting-place of any kind until Roman London is reached. Tudor and later London is so evidently the break-up of a system from which had been derived charters that Stuart sovereigns so contemptuously confiscated and so cynically restored, and municipal offices which

the Tudor and Stuart sovereigns alike demanded for royal nominees, that it needs no effort to refer back from it to the more constitutional doings of the charter-granting Plantagenets and Normans. Plantagenet London is so evidently the home of vigorous survivals of city forms of goverment, some of which stretch back to Anglo-Saxon times and some to Roman times, that the struggles of Norman London in resisting sokes and jurisdictions, charters, and other legal domination appear only as the necessary intermediate position. Norman London is so definitely a community resisting new rules and ideas, that the step back to older rules and ideas from which the new were departures is only a necessary obedience to the historic facts. Anglo-Saxon London with its disappointing blanks in documentary evidence is so clearly an institution not belonging to the Anglo-Saxon constitution, that it is necessary to rely upon pre-Anglo-Saxon times for the origin of a phenomenon so strangely out of keeping with its surroundings. In pre-Anglo-Saxon times there are cities in Britain left by the Roman government, and British tribes governed by tribal laws and custom and having tribal organisation as their basis of government, and it cannot be doubted from which of these two sources came the evident independence of London. There is then no stopping place until we reach Roman London — decayed, stripped of its magnificence, deprived of its wealth and its commerce, almost, perhaps, by comparison a ruined city, but a city with its system of government still intact, its ideal of independence not dead, its continuity of municipal

organisation never broken, even if at times endangered.

I have stated that I know of no evidence to set against this, no evidence in support of Bishop Stubbs' conclusion, and certainly no evidence in support of Mr Loftie's position as presumably confirmed by Mr Freeman. Search where we may, re-examine what documents we may, we come back to the same general results, and even though some of my details may be questioned, the cumulative value of the general results cannot, I think, be shaken. It would have been easy, and it would have been pleasant, to linger over many of the details, to have introduced many subsidiary elements in confirmation of some of the conclusions suggested; but I have resisted this on the ground that the subject was difficult enough to make clear by keeping to the main line of argument, and that by overloading the pages with further illustrations, I should be endangering whatever features I have been able to introduce which tell for clearness. It would, for instance, have been interesting to turn to the plural form of the Norman name Londoniæ, and to suggest its derivation as the translation of the earlier tribal name Londonienses, by which Londoners were always known to the tribal Saxons, for such a derivation supports, I think, the evidence for the independence of London in the eyes of the Anglo-Saxon: it was, as the Mercians were, or as the Northumbrians were, a separate unit of the country occupied by men in community, and therefore to Anglo-Saxons only known by a tribal name, Londoners, not London; the community of persons,

not the locality occupied. Londonienses is a tribal form of name. It was used of Londoners by tribesmen, and stood for the tribesmen's idea of independence. No such suggestion has occurred to philologists, but I think the conditions allow of it being made. Again it would have been useful, perhaps, to have classified the whole body of city custom, as it has come down to us from Norman documents and from the remedies provided by statute law, in order to distinguish those items which were definitely Norman, so that the residuum might have been considered by the same standard as the specially-selected customs which have been divided between Roman city law and Teutonic tribal rules. This residuum would have included such customs as Lord Coke describes

"that divers cities the cinque ports, boroughs, towns corporate, etc., within this realme did claime such a custome that if any of one city, society or merchant guild were indebted to any of another city, society or merchant guild, if any other of the same city, society or merchant guild that the debtor was of came into the city society or merchant guild whereof the creditor was, that he would charge such a foreiner for the debt of the other,"[1]

and many others which had to be remedied by statute law. Further, it might have been well to have extended the enquiry into comparative custom, so that Exeter at least should have been included among the cities examined in their relationship to London. Dorchester, another southern city, which furnished a useful parallel to Roman London, and some others, — as, for instance, Bath — which have continued on Roman sites, deserve further examina-

[1] Coke, *Institutes*, 1797, 204.

tion in this respect. But even with what these additions may foreshadow, there does not appear to me to be any indication of different conclusions so far as London is concerned. On the contrary, everything points to the correctness of the conclusions arrived at. These conclusions show how particularly valuable comparative custom is. We find certain details of London municipal life paralleled in other cities where definite Roman origin is clearly shown. The London and Dorchester "pummeries," the London and Cirencester amphitheatres as late bear-garden or bull-ring, the London and Monmouth continuation of sentiment for the ancient Roman sites of their respective cities, the London and Winchester territoria dominated or taken possession of by the Church, the London and Exeter positions of independence before King William — are all items, not only of great significance by themselves, but of special significance to London, because London contains them all, while only a solitary example is found in each of the other cities. They are mere survivals elsewhere, the sport of circumstances keeping alive a single relic. In London they belong to a surviving system of which they do not by any means constitute the whole. The crash of the Roman ruin left here and there a preserved monument to compare with the London preserved life. The comparative history of English cities needs careful attention, and so far as I have penetrated into it, as in the case of York and some others, it forms one of the most instructive branches of research into the origins of the English constitution.

The pivot point of the whole subject is, of course, the interpretation of the facts of Norman London. The charters, the sokes and jurisdictions, the folk-moot of the city, the ceremonial and legal custom, the central and local systems of government, the laws of the city which were not state law, the statute law which encroached so slowly upon the city law—the whole complicated mass of difficulties and contradictions have awaited explanation, and have not received it, because the study of comparative institutions has hitherto not been applied to the problem of London. If Norman London thus represents the main difficulty, it also supplies the one key necessary to unravel it, namely, the charters. Any one appreciating that William's first charter was an entirely novel thing in London government must be led to enquire what its significance really was. Considering it first by what had gone before, it is obviously an instrument of sovereignty; it must be looked at, not from the point of view of those who received it, but from that of the monarch who granted it. From the first point of view it was absolutely unnecessary. To gain knowledge of the second point of view we have to compare it with its successors, to find out that new charters did not mean new rights or privileges, but new grants of existing laws and customs, and then the whole subject becomes plain. Charters were the means by which London was welded into the English state, and the whole period of its pre-charter existence stands out clearly as a condition of quasi-independence in which the state was very little concerned.

This inevitably takes us to the Roman city. It must, however, be borne in mind that continuity from Roman times has not given us a Roman London for all time. The Saxon has been there, and being there, he has left his stamp upon the great city. We thus avoid the illogical conclusion dear to some scholars of to-day, that the presence and continuity of Roman civilisation means a Romanised Britain, and hence a Roman origin for English institutions. This, of course, is Mr Coote's famous theory. It is at the back of Mr Seebohm's research into the village community system. It appears to be the tendency of Mr Haverfield's more recent research. There is no evidence to support such a conclusion. The English conquest was a veritable conquest, and the manner of the English relationship to London is typical of the manner in which English institutions were planted in the land regardless of what else might be there. The English do not mind obstacles. Given a city which interfered with them in their settlement, and they promptly swept it out of existence, and planted their village homes, their cattle stalls, or their food grounds on the site, as at Silchester. Given a city which did not enter into their field of view one way or another, and they contemptuously neglected it, handing it over to the Church with all its belongings, as at Carlisle. Given a city like London, which they could not destroy, and they gradually settled all round it, using it just when and how they pleased, but leaving it outside their own organised system of government. There is no sign of Romanised Britons or Romanised Teutons here. There is,

however, sure sign, indeed, of a strong and powerful system which could settle amidst difficulties, and settle in its own fashion undisturbed by any other consideration. If I have shown Roman London to have begun London history, I have not shown that it continued it through the ages, and this, if I mistake not, is the surest sign that my line of research has been the correct one. London is Roman London Englished and made fit for its service to the English people. The English people are better for the static force of London, which helped to make stable the unstable tribal conditions of early times, and to direct the less plastic forces of feudal times. It stood firm to its old ways, long enough to teach firmness to the builders of the English state, and its historic record as I read it is the greatest that has fallen to any city, not even excepting Rome herself.

The great point is to have given consideration to London as an English local institution. Hitherto it has been regarded as a storehouse of archæological remains, the living place of great Englishmen, the centre of English parliamentary government, the greatest commercial community in the world, and from many lesser points of view. These, however, are only sections of the case. As an institution it carries with it so much more of the national life. It stands forth as the product of our race in England comparable with what Greece and Rome have produced, and with what modern civilisation may yet produce. The territory called London, the people called Londoners, the buildings consecrated to the past, all the facts which contribute to its present

existence, are, when considered separately, so many subtractions from London the institution, and it is only when we consider it as an institution that we begin to learn something of its place in English history. The points which have been noticed by historians receive fresh illustration from their new setting, and there are many points which have remained unnoticed by all historians, which turn out to be of supreme importance.

I cannot help thinking that the results attained in the present study are due to a large extent to a reversal of the usual standpoint adopted by the historian. His attitude is that of looking back upon his subject, and not only his facts but his terminology become tinged by this circumstance. The truer method is to endeavour to get at the back of the great events and so to look towards the developing life, using the terms and the facts suitable to each stage. Thus to understand the position of London, we have had to reconsider the use of some well-used terms. State, army, general, monarch, democracy, aristocracy, nobles, etc., belong to Roman civilisation, but they do not belong to the Celts and Teutons of Britain, and I doubt whether they belong to the Celts and Teutons of the continent.[1] Green's picturesque pages would have been enhanced if he had described the Saxons, who fought so splendidly

[1] I think in particular Mr Holmes' very valuable study of Gallic institutions reads much stronger if we substitute for the advanced terminology he uses the terminology proper to tribal institutions.—*Cæsar's Conquest of Gaul*, see section iv., "social, political and religious," 515-547; and why does Mr Lang, in his new study of *Homer and his Age*, use the term feudalism to describe Greek institutions?

for their English inheritance, and who, after the fight, melted away so strangely, as tribal gatherings of the host, and not as military forces under a soldier general; the whole course of history would be plainer by the use of terms which apply to the condition of the period under consideration rather than those of the modern historian who is dealing with this period.

That London as an institution should stand out so greatly by itself is an enormous advantage in the cause of research into the history of English institutions. Whenever students take up the history of any one city or borough as an institution, they will find the investigation of the history of London as an institution to be a necessary beginning. To know London properly we have to know constitutional matters in relationship to each other, to know how city, church, tribe and state stand to each other at the earliest period, and at various periods after progress has taken place. We have also to know details of London which serve as a standard for comparison to which other cities and boroughs may more or less conform, or from which they may very strongly diverge. To understand London thoroughly is to know what to look for elsewhere, and to detect with comparative ease special points which differentiate the cities and boroughs from each other. All cities and boroughs which may claim a Roman origin must be compared with London, and by contrast all those which claim an English or a Celtic origin and development may be compared with London until we get an English or Celtic type investigated and decided

upon. We are not likely to get another London. There is no room on English ground for another, and its unique position more than anything else, perhaps, has produced the importance it possesses as an English institution.

It looks almost as if beginning with the ideal derived from the Roman conception of city life we had ended with the disappearance of all ideal. But this is not quite so, for the history of London does not end with the present position of the ancient city. There is the new history in the new London—that London which is now struggling into existence. As the capital of the empire, London is not treated by the Imperial Government in quite the same spirit as other cities are treated. Its needs are considered with something of jealousy and much of suspicion. Perhaps this is inevitable because London is the capital. But this state of things will pass, and whenever the great community which now answers to the name of London cares to exert itself in claiming rights over her own destiny, those rights will be conceded in all essentials. The new ideal will be found here. The old ideal, lost and gone for ever in the finished history of the old city, will give place to the new ideal emanating from the pulsation of the men and women who desire London to be great in happiness for those who claim it for their home. That New York or Berlin is seeking to outdo it in physical greatness may not appeal to the prosaic common-sense of Englishmen, but there is a dormant force in London which desires the greatness of London in health and happiness, and

this once aroused to the full will mean a great ideal and a great result.

In attaining the position it now holds London has become one of the monuments of human progress, one of the measuring posts by which we can reckon up the civilisation of the western world — it is one of the institutions by which man has shown his capacity for subordinating selfish to common interests. It cannot have developed so far without having caused great disturbances in the normal growth of the people from small beginnings to a great political nation—it must have pushed on one side, in its own progress, one or more other efforts at development; it must have influenced enormously the trend of national life. It is from these points of view — may I say these larger points of view?—this great outlook, that I have treated the history of London. I have taken up facts in its history, not for the facts themselves, but for what they tell us of the story of national progress; I have dug up archæological remains, or documentary remains, not for the purpose of asking attention to the remains, as they interest us for themselves, but for what they teach us in the history of the city and of the state as these two institutions appear in British evidence.

EXPLANATORY NOTE ON THE MAPS

LUNDINIUM (EARLY PERIOD). PAGE 79

THIS is drawn from the modern map of London. The area enclosed by the red line is the non-burial area alluded to on page 78, and the irregular black line is made up from the boundaries of the modern wards. The irregularity is remarkable, and is undoubtedly very early in origin, indicating the physical conditions of the country outside Lundinium. The red line boundary would represent the original defence line of the vallum of the earliest camp of Lundinium, and the space between the red line and the black irregular boundary lines of the wards would represent the Pomœrium, which it is significant to note is more extensive on the west, where the parish of St Martin Pomroy is situate.

LUNDINIUM AUGUSTA. PAGE 88

THE walls of mediæval London are on the foundations of the walls of Roman London, and the boundary of the defences of Lundinium Augusta is thus clearly indicated. The sites inside the city which can be identified with Roman sites are St Pauls, Leadenhall, and London Stone and these are indicated on the plan. The sites outside the city are the amphitheatre, suggested to be at the Bear Garden, Southwark (pp. 94-95), Mile End (pp. 104-106), and the Pomœrium suggested to be indicated by the modern liberties (pp. 84-86). The limits of the territorium north, east, south, and west, are indicated on the map, but Lundinium with its territorium is shown on a separate map of a smaller scale. It is interesting to add to the evidence in the text as to Mile End that there is also a Mile End at Colchester; and as to London Stone, from a seventeenth-century chap-book, *The Idol of the*

Clownes, or, insurrection of Wat the Tyler, with his fellow Kings of the Commons, against the English Church, the King, the Lawes, Nobility and Gentry, in the fourth yeare of King Richard the 2nd (*London, Printed in the year* 1654), I have gathered two very curious notes. The basis of the book is Walsingham and Froissart's *Chronicles*, but occasionally the author gives opinions and additions of his own, whether from tradition or fancy it is not possible to say. The curious and significant action of Jack Cade at London Stone, already alluded to (*ante*, p. 151) is by this author told also of Wat Tyler. His words are:—

Then attributing all things to God and His conquering armes, and striking his sword (which shewed the present power) on London Stone, the Cyclops or Centaur of Kent [Tyler] spake these words: From this day all law shall come from Wat Tyler's mouth: the supream authority and legislative power were to be and reside in him, etc.

If there is any authority for this it is a curious confirmation of the significance of the Jack Cade incident. This old book contains another item of interest, which should not be overlooked by the student of archaic life. "Tyler was, by I know not what ceremony—perhaps like that Irish election by casting an old shoe over his head—declared prince of the rabble."

LUDINIUM AUGUSTA (SHOWING THE TERRITORIUM.) PAGE 96

THE extent of the territorium is suggested to have been equivalent to modern Middlesex on the north and east and an indeterminate area on the south limited at its eastern extremity by Crayford and extending to Wimbledon and Barnes on the west, Barnes being a part of the possessions of St Paul's Cathedral, and, therefore, according to the argument advanced on page 106, once a part of the Roman territorium absorbed later by the Church. Whether the boundaries of parishes or other divisions can be worked out for the purpose of more accurately defining the southern boundary line of the territorium I do not know, but research in this direction is needed.

ANGLO-SAXON LONDON. PAGE 160

ANGLO-SAXON London is Roman Lundinium Augusta shorn of its territorium and hemmed in by the new Anglo-Saxon settlements. The boundaries of the walled city are of course a repetition of the previous plans. The settlements around are, first, the Danish settlements at Aldwych, described on pp. 191-198, and at Thorney, and secondly, the Anglo-Saxon villages and manors described in Domesday Book. These are Cambrewelle, Pecheham, Hachesham (Hatcham), Clopeham, Lanchei (Lambeth), Waleorde (Walworth), Estreham (Streatham), Patricesy (Battersea), Totinges (Tooting), Wendelesorde (Wandsworth), Sudwerche, Bermundeseye (Southwark), Alteham (Eltham), Cerletone (Charlton), Chenetone (Kennington), Grenviz (Greenwich), Hulviz (Woolwich), Lee (Lee), Levesham (Lewisham), Plumstede or Plumsstede, Isendone (Islington), Tolentone, Fuleham, Cerchede or Chelcede (Chelsea), Chenisitum (Kensington), Hamestede, Stebunhithe (Stepney), Cantelves or Kennestonne (Kentish Town), Totenhall, Tybourn, Stanestaple (Stroud Green). To obtain an external boundary of the map I have taken the modern county of London formed by the Local Government Act of 1888, and within this area indicated the sites of the Domesday villages. They are, for the most part, still traceable in modern topography. The boundaries of each settlement are not so easily obtained. Perhaps the manor and parish boundaries would practically equate with the ancient settlement boundaries, and if this were accepted the map could be completed on these lines. It will be seen how close up to London the Anglo-Saxons came, and this map will illustrate forcibly the argument in the text.

ALDWYCH. PAGE 181

THE important element in London history represented by the settlement of Aldwych has not hitherto been properly indicated. In the text I have indicated its southern extension and hinted at its northern extension in connection with the recorded settlement of the Danes on the banks of the Lea. The Tothill Street, near Mount Pleasant in Gray's Inn Road, is, I think, a relic of this northern extension, representing the Tothill of Aldwych just

as there was a Tothill at Thorney. The plan is copied from one given in Parton's *History of St Giles*, which was compiled from ancient documents, and gives several record names of Aldwych.

WESTMINSTER. PAGE 185

THE eastern boundary of Westminster shown in the plan was fixed by a decree of the year 1222; the western boundary is that according to the Charter of 951. The important point of the altered boundary is that it limits the eastern boundary of Westminster so as to leave an area between its eastern boundary and the city boundary excluded both from the city and from Westminster. This area is identified with the facts which have been discussed in connection with Aldwych. These limitations differ from the boundaries described in a Charter of 951, which apparently extended up to the Fleet. There is no means of accounting for this difference, but it is clearly due to events which had happened subsequent to 951; and as the Danish settlements in London had become permanent since that date, it is permissable to suggest that the independent jurisdiction of the Aldwych area, due to Danish influence, had determined the altered eastern boundaries of Westminster, and it may perhaps be that the limitation on the western side, not shown on the map, was due to the Danish influence at Thorney. The whole question is discussed in a paper contributed to *Archæologia*, vol. xxvi., on "The Results of an Enquiry concerning the Situation and Extent of Westminster at Various Periods," by Mr George Saunders.

TOTHILL FIELDS, WESTMINSTER. PAGE 171

THIS plan is taken from Rocque's Map of London, 1746. It shows very clearly the position of this ancient site, which remained in its natural condition until the beginning of the nineteenth century.

TUDOR LONDON AND ITS WALLS. PAGE 369

THIS is a facsimile of Norden's Map in his *Speculum Britanniæ*, and shows the existing walls and gates, together with the first extensions beyond the walls, and on the south of the Thames.

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